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The Southwestern
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A Call to All Social Scientists*

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Texas Christian University

These are days when everybody is getting mobilized into something. Many here, the young men at least, already belong to military reserve corps. Almost daily we are urged to join or at least support the Crusade for Freedom, the Heart Campaign, the Blood Bank and numerous like organizations. Only a short while ago I had an invitation to support a new organization. It was the Business-men's Committee to Help the President Make the Republican Administration a Success.

In order that no one may feel left out I wish here and now to issue a call to all social scientists. It is time we social scientists got together. It is time that we felt more closely bound to one another. It is time we were cooperating together for some common causes.

This *should* be an occasion for our entire membership. I recognize full well that it would be most presumptuous on my part to try to tell those of you in any one of the disciplines represented here anything of scholarly worth; and it would be most unfair for me to devote this time to my own area of concentration in which I might be expected to feel some measure of competency. I hope, therefore, for these few minutes at least, that you will forget that you are an economist or an accountant or a historian or what not, and feel only that you are a *social scientist*. I shall leave the stimulation of your more specific scholarly pursuits to my worthy colleagues who are to follow—we are here now as *social scientists*, *only*, and *together* have, I believe, urgent matters worthy of our attention.

Let me say here parenthetically, in this connection, that I am well aware of the fact that speakers on this platform in years past have questioned the existence of any feeling of fundamental unity among social

*Presidential address delivered at the annual convention of the Southwestern Social Science Association at Dallas, Texas, April 3, 1953

scientists, and that they were hard put to it to find an important justification for the existence of an association such as ours. It is also well-known, too, that in times past one section or another of this Association has considered withdrawing its affiliation. Separate entities for each section, no doubt, would bring some advantages—but I would emphasize here that in my humble opinion the advantages of coming together in the way we do here *far outweigh* any shortcomings to any specific discipline; and, further, I would suggest that there has never been a time when the need for social scientists to work together has been so great as now.

I, therefore, at this time am most concerned about what we should be thinking about *together*, and what we should be doing *together*. We may be loosely knit, we may have our specific needs and problems—but *what do we have in common? What should we be doing together?*

Three things I wish to mention here at this time which I believe should claim our united interest and common concern. And the first of these is a defense of the social sciences themselves. I am sure you will agree that I am not dealing too loosely with the truth when I suggest that the social sciences as such at the present time are in something of a state of disrepute. The social sciences never have rated a position on a par with the natural sciences, of course, but in these days of urgent need when social scientists feel they could be of truly worthwhile service, it is particularly humiliating to be shunted aside and disregarded; ignored if not ridiculed as a non-essential. And, in general, of course, the social sciences are suspect—which, no doubt, in these days is the fatal blow.

Evidence to bear out such an appraisal is all about us and voluminous in amount. Only recently a *New York Times* article reported that a record total of $350,000,000 would be spent for research projects in this current year in colleges and universities, about $300,000,000 of which would be provided by the Federal Government. How much of this $350,000,000 do you suppose will be used in the social sciences? Let me read you the answer:

> Ninety per cent of the money is ear-marked for research in the physical and biological sciences. Only a fraction is set aside for research in the humanities. Virtually none of the Government's funds will be devoted to the social sciences or liberal arts.

This last item follows naturally from the attitude of Congress as it expressed itself in the establishment of the National Science Foundation, which, you will remember, was for the support of the natural sciences only.

This shows where the heart and interest of the general public, as expressed through government and through the businessmen and foundations that contribute such private support, lies. It is almost exclusively

for natural sciences—the Ford Foundation being at present almost the only exception.

This situation, incidentally, is of very pertinent concern to everyone here as it affects the situation in your respective institutions. As a special committee of the American Council on Education has observed:

> It is becoming clear that these vast sums for research are having significant effects, often unrecognized, upon the procedures and objectives of the institutions that receive them.

and the President of the Council, Dr. Arthur S. Adams, further stated:

> The concentration of support on the physical sciences, to the virtual exclusion of the humanities and social sciences, may distort existing relationships among the various disciplines with regard to undergraduate and graduate instruction as well as to research.

Progress, in the eyes of Congress and the public generally, means natural science progress. Instead of our cultural lag catching up, the gap between the giant strides of the natural science juggernaut and our efforts to take care of the social problems it is leaving in its train is widening. As one pessimist has observed:

> Man has learned to swim the water like a fish and to fly through the air like the birds, but to live on the earth at peace with his fellow human beings—that has so far eluded him.

Or as another cynic noted:

> Two thousand years of saying mass
> Have gone as far as poison gas.

To us here, of course, the answer is plain. But it is not plain to the American public. Just a short time ago came a note of alarm that our institutions were not graduating enough engineers, that in the next few years we were going to be 30,000 engineers short. Have you ever seen any note of alarm over a shortage of social scientists? No, in this area of human relations we need no principles, no scientific research. In this area we can just do "what comes naturally".

So I submit that here is one area where we need to be about our business. We need to raise the status of the social sciences, to win for them a place of respect and felt need in the minds of the American public. This can only be possible if we work together.

Another area of common concern is this: we ourselves need to recognize the close interrelationship existing among our respective disciplines and to act accordingly. In this day and age, in our institutions of higher learning in which we, professedly, are trying to develop whole persons as graduates, we cannot in good conscience act only as specialists in our respective disciplines. Just as the human body is integrated, just as man is a unit—so man's psychological behavior, his political behavior, his economic behavior are inseparable aspects of the same phenomenon.

Certainly we are all well aware by now, from many recent examples,

of the danger of taking anything out of its context. I am becoming convinced more and more that nothing can be understood, really, out of its complete context; and it follows naturally, therefore, that we in our teaching cannot present any close approximation of truth out of its total setting.

What I am suggesting here is this. If there is any truth to the idea that the social sciences are all of one piece, so closely interrelated that they are integrally interwoven into a single whole, then we must regard ourselves as *social scientists first* and *specialists second*. Our own discipline becomes of little significance apart from the others. We are only kidding ourselves if we imagine we can turn out good economists, good statisticians, good accountants, and the like, if we do not first or at the same time seek to turn out well-integrated, well-rounded, whole personalities—in other words, good *social* scientists. Then, within its necessary context, it will follow naturally that our graduates will be good accountants, good economists, good sociologists, and the like.

This, then, is another area in which we need to work together. And here, especially, is where our Association can be of service in providing help and inspiration to make us all better social scientists, the great need of this day. As Charles A. Beard once admonished the political scientists to "become social scientists first and political scientists second", so we all need to recognize that our own specialty is only a part of a larger whole, and as teachers or purveyors of the truth we must ourselves become truly integrated. This Association now, at most, is but a symbol; we in our own acting need to make it a living reality.

There is a third area of immediate and pertinent concern which should claim our united attention at this present moment, and this is one in which we need to join with all other scholars everywhere. I refer to the pursuit of the truth and especially at present the right to make such a search for the truth and to proclaim our findings. No area of education, as you know, is under more scrutiny and attack than is our own area of the social sciences. All scholarship is becoming suspect. Some weeks ago a Miss Elizabeth Bentley, former communist, made a speech in my fair city. Following her formal address, in answer to a question as to how to detect subversives, she stated that all Ph. D.'s were suspect. Such a judgment is not unusual. Also in our fair city not many months ago appeared a member of our own fraternity, an economist so-self-designated, from a neighboring state, but a part of this southwestern region. He also made a speech, and according to front page publicity the gist of his remarks was as follows:

1. The majority of economic textbooks—those in widest circulation in colleges—are written by "left-wing" professors with "insane ideas."

2. These left-wing professors are advocates of government owner-

ship and are deliberately attempting to "overturn the economy" through their teaching and writings.

I do not know whether this person who uttered these pronouncements is a member of this Association or not and present at these meetings—but whether here or not, I feel duty bound to say that such scatter-shot accusations against an entire profession, in my opinion, reflect more upon their purveyor than upon the profession they would appear to besmirch. Even a fat fee would not seem to justify such stultification of one's own profession.

Perhaps the most interesting current illustration of this sort of thing was provided by Arthur Hays Sulzberger, publisher of the *New York Times*. This is the way he reported it:

> Thirty-five years ago Frank Magruder wrote a book entitled "American Government." Recently a critical review of it appeared in The Educational Reviewer, which is published by the Committee on Education of the Conference of American Small Business Organizations. The critic said the book had socialistic and communistic overtones. That review was then picked up by a well-known radio commentator.
>
> Reaction came fast: The state of Georgia dropped the book, but ironically, agreed to sell to the highest bidder the 30,000 copies it had on its hands.
>
> Houston, Tex., banned the book.
>
> Little Rock, Ark., dropped it as a text, but retained it for reference.

Well, as you know, such examples of current reasoning are legion, and we are naturally amused at them. But it would be much easier to smile such things off if we had not come to realize that they are forming a pattern—I won't say a sinister pattern—but at least a pattern that is most disturbing. For *we* know that academic freedom is the very center of all freedom of speech and that freedom of speech is the very heart and bulwark of our American Democracy, and without freedom of speech human freedom would be jeopardized and our democracy itself would be an empty shell.

When we stand up to defend intellectual freedom, therefore, we are not defending a personal right of professors. Much more is involved. We are defending the rights of students to become fully informed, for their own well-being and the well-being of their country. We are defending a concept of education which a democracy has authorized and which a democracy requires. In short, we are seeking to preserve the only essential prerequisite to the realization of our democratic way of life.

Academic freedom is not just an academic matter. Our nation, as a democratic republic, depending upon an alert and informed citizenry, cannot afford to limit inquiry or to restrict the interchange of ideas. We have a responsibility here. In true patriotism those who enter the profession of scholarship are under obligation to strive, to the best of their ability, to deliver impartial research and honest teaching.

So I return to my original query: *What do we need to do together?*

First, then, we need to establish ourselves and our science in the good graces of the public. Second, we need to think more of ourselves as *social* scientists. And, third, above all, we need to stand together in our defense of the basic freedom without which our American democratic way of life would not stand.

As I think of these developments requiring a closer cooperation on our part I cannot keep from feeling that our predecessors who founded this Association some thirty or more years ago "builded better than they knew." According to the history, it was started by a small group interested primarily in political science, but from the very beginning that small group recognized the need of an understanding of history and economics, sociology and jurisprudence, and all other fields of scholarship related to public life—in order to understand their own field, political science. Such a beginning was prophetic. This Association is symbolic. We must now recognize, more than ever, that we belong together and need each other. We must stand together and work together, realizing ever more fully the significance of this cooperative idea and in realizing it fulfilling a worthy place in our great democracy.

Patterns in the Economic Support of Higher Education in the West South Central Region

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Post-war inflation, of both prices and college enrollments, has sharpened interest in the problem of the financial support of colleges and universities. Comprehensive data concerning comparative levels of support, and resulting standards, are available only in the reports of the U. S. Office of Education which, for obvious reasons, may be reluctant to analyze the figures in such a way as to reveal weaknesses that might prove offensive to Congressmen from any state. This study is an attempt to analyze more fully the most recent government statistics in order to reveal comparative levels of college support and resulting qualitative standards in four Southwestern states—Arkansas, Louisiana, Oklahoma, and Texas. These four states constitute one of the nine regions into which the U. S. Office of Education divides the forty-eight states for statistical purposes.

Regarded as a whole, the West South Central region contains nearly ten percent of the nation's population and over nine percent of its college enrollment.[1] (Table 1). Broadly speaking, the four states are similar in that they are traditionally agricultural and increasingly industrial. Oil gives standing in mineral production to three of the states.

In proportionate college enrollment (resident enrollment per 10,000 total population) the area is within two percent of the national ratio, and in percent increase in enrollment during the past two decades it exceeds the national rate by 21 percent.

Typical of the western states this region contains a high proportion of public controlled institutions, over one-half as contrasted with one-third throughout the country, and a similarly high percentage of junior colleges, 37 percent as compared with 28 percent for the nation. (Table 2). Teachers colleges are substantially less numerous and "other institutions" only slightly fewer in number than national ratios would lead one to expect.

The Southwest is a region of low per capita income (85 percent of the national norm)[2] matched by more than proportionately low per capita expenditure on higher education[3] (79 percent of the norm). (Table 3).

[1]The educational statistics for 1949-50 were published by the U. S. Office of Education last summer and fall and are the latest comprehensive data available.

[2]Throughout this discussion the average ratio for the nation as a whole will be employed as a norm (= 100%).

[3]Education and general expenditures on higher education divided by total population.

TABLE I
RESIDENT COLLEGE ENROLLMENT IN RELATION TO TOTAL POPULATION FOR SELECTED AREAS, 1949

Region	Population[1] (000's) 1949	College[1] Enrollment	Enrollment Per 10,000 Population[1]	Percent Increase 1949 over 1929[2]	Average Enrollment Per Institution[3]
U. S.	148,558	2,437,560	164.1	241.6	1317
West S. Cent.	14,266	229,964	161.2	291.9	1345
Arkansas	1,835	19,445	106.0	328.2	845
Louisiana	2,633	35,641	135.4	342.4	1980
Oklahoma	2,125	45,401	213.6	217.1	1297
Texas	7673	129,477	168.7	311.2	1363

[1]U. S. Office of Education, *Biennial Survey*, 1948-50, Chapter 4, Statistics of Higher Education, Sec. I, Table XVII.

[2]*Ibid.*, Table XII. Resident college enrollment, regular session.

[3]Computed from college enrollment divided by number of institutions (See Table 2).

The former ratio is a measure of ability to support and the latter a measure of actual support. In terms of percent of personal income devoted to higher education[4], a measure of proportionate sacrifice, the region exceeds the national ratio approximately five percent.

TABLE 2
NUMBER OF INSTITUTIONS OF HIGHER EDUCATION, BY CONTROL AND TYPE FOR SELECTED AREAS
1950[1]

Region	All Institutions				Public Controlled Institutions
	Total	Universities, Colleges and Prof. Schools	Teachers Colleges	Junior Colleges	
U. S.	1,851	1,109	218	524	641
West S. Cent.	171	93	15	63	93
Arkansas	23	14	2	7	12
Louisiana	18	17	1	0	7
Oklahoma	35	13	5	17	26
Texas	95	49	7	39	48

[1]U. S. Office of Education, *Biennial Survey, op. cit.*, Sec. II, Table I.

Average educational expenditures per student[5] of $510 in this region is only 79 percent of the national average. (Table 4). This measure is

[4]Expenditures on higher education divided by individual income x 100.

[5]Educational and general expenditures divided by enrollment.

qualitative in that it indicates the average concentration of expenditure on each college student. Instructional expenditure per staff member[6] is another qualitative measure, which, in the absence of salary data, roughly measures the comparative ability of an area to bid for superior teachers in the national market. In terms of this measure the region is over seven percent below the national norm. Teacher-student ratio[7] constitutes a third qualitative index, as one measure of the degree to

TABLE 3

PER CAPITA INCOME AND EXPENDITURE ON HIGHER EDUCATION, SELECTED REGIONS, 1949

Region	Per Capita Income[1]		Per Capita Educational Expenditures[2]		Percent Individual Income Devoted to Higher Education[3]	
	Amount	Percent	Amount	Percent	Amount	Percent
U. S.	$1330	100	$11.49	100	$1.08	100
West S. Cent.	1127	84.74	9.09	79.11	1.14	105.56
Arkansas	778	58.50	6.66	57.96	1.18	109.26
Louisiana	1002	75.34	9.24	80.42	1.29	119.44
Oklahoma	1068	80.30	11.19	97.39	1.45	134.26
Texas	1205	90.60	9.04	78.68	1.01	93.52

[1]U. S. *Statistical Abstract* 1951.

[2]U. S. Office of Education, *op. cit.* Sec. I. Table XVII, and Sec. II, Table 7. Computed from total expenditures for higher education, "Education and general" divided by population.

[3]U. S. Office of Education, *Biennial Survey*, *op. cit.*, Sec. II, Table X. Computed by dividing total income to individuals for the region into total expenditures on higher education and multiplying by 100.

which a teacher's efforts are concentrated or diffused. By this measure our region exceeds the average national ratio by eight percent. Higher ratio in this case suggests heavier teaching loads, but in the absence of other measures of academic load it is not definitive.

Our brief analysis of the West South Central region has shown it to be characterized by income and expenditures on higher education, however measured, which are substantially below national norms. Let us now turn to a consideration of the individual states.

Arkansas has the smallest population and college enrollment among the four states of the southwest. Her college enrollment is not only small in absolute terms, but also proportionately, being only 65 percent of the national ratio of enrollment per 10,000 total population. (Table 1). In rate of increase since 1929, however, Arkansas exceeds the average rate for the nation nearly 36 percent. This indicates that her low proportionate enrollment is in process of correction.

[6]Instructional expenditure divided by staff. Instructional expenditure includes instructional salaries, textbooks, office supplies, and clerical assistance.

[7]Staff divided by enrollment.

In pattern of control and type of college Arkansas is the most typical state of the region, with percentage distribution in each category very close to that of the region as a whole. (Table 2). Total number of institutions is large in proportion to enrollment which results in an average enrollment per institution which is lowest in the region and only 64 percent of the U. S. average.

Arkansas, with a rank of 46th among the 48 states in per capita income, (only 58 percent of the national average) is poorest of our four states. (Table 3). In per capita expenditure her rank and percent of the national ratio are practically identical with those for income. In percent of personal income devoted to higher education, our measure of sacrifice, Arkansas exceeds the U. S. average ratio by nine percent.

TABLE 4
INDICES OF EDUCATIONAL EXPENDITURE AND TEACHING LOAD, SELECTED REGIONS, 1949

Region	Educational Expenditures Per Student[1]		Instructional Expenditures Per Staff Member[2]		Teacher-Student Ratio[3]	
	Amount	Percent	Amount	Percent	Amount	Percent
U. S.	$642	100	$3713	100	1/12.6	100
West S. Cent.	510	79.44	3436	92.54	1/13.6	107.94
Arkansas	578	90.03	2342	63.08	1/9.8	77.78
Louisiana	636	99.07	3529	95.04	1/11.7	92.86
Oklahoma	481	74.92	3792	102.13	1/15.5	123.02
Texas	477	74.30	3527	94.99	1/14.4	114.29

[1]U. S. Office of Education, *Biennial Survey, op. cit.* Computed from Sec. I, Table XII and Sec. II, Table 7.
[2]*Ibid.*, Computed from Sec. I, Table 3 and Sec. II, Table 7.
[3]*Ibid.*, Computed from Sec. I, Table 3.

Turning to qualitative indices, we find that low expenditure is partly balanced by low enrollment to give a per student expenditure of $578, which is above the regional average and only 10 per cent below the national average. (Table 4). The relatively low enrollment is accompanied by a relatively low (favorable) teacher-student ration which is 78 percent of the national average. Whether this seemingly favorable situation is neutralized by low average institutional enrollment and its likely accompaniment of too many classes and too much diversity, rather than specialization, of instructional effort, cannot be determined on the basis of U. S. Office of Education data. Certainly instructional expenditure per staff member, which is the lowest in the region and 37 percent below the national ratio, does not indicate that the relatively high per student expenditure means high level of support in general.

To sum up, Arkansas stands low in population, enrollment, income, educational expenditure per capita and teacher pay. Due to low enroll-

ment she stands higher in per student expenditure and ranks favorably in student-teacher ratio. Diffusion of educational effort among a relatively large number of relatively small institutions probably neutralizes the benefits which otherwise might be derived from these favorable indices.

Louisiana, more populous than Arkansas and with much lar - college enrollment, is within 83 percent of the national norm in enrollment per 10,000 of total population. (Table 1). Her rate of increase in enrollment, however, exceeds the national average by 42 percent. Average enrollment per institution is highest in the region and 50 percent above the U. S. average.

In institutional pattern Louisiana is non-typical of the region. Only 39 percent of her institutions are public controlled and none are junior colleges. (Table 2). In these respects Louisiana is more typical of the east than of the west. Only one of her institutions is a teachers college.

With a per capita income of $1002, Louisiana ranks 39th in the nation. (Table 3). This amount is 75 percent of the national average. In per capita expenditure on higher education this state ranks 31st with an amount which is 80 percent of the national norm. This relationship yields a percent of personal income devoted to higher education 19 percent above the national figure.

In terms of educational expenditures per student, Louisiana ranks highest among the Southwestern states and in within one percent of the nation's average. (Table 4). Inasmuch as educational effort is concentrated in a few moderately large institutions there is reason to assume that this expenditure is reflected in higher standards. This assumption is supported by instructional expenditures per staff member far above Arkansas and within five percent of the U. S. average ratio. Indications of quality are supported also by a teacher-student ratio which, although above that of Arkansas, is still below the national norm.

Oklahoma, less populous than Louisiana, has substantially more students. This relationship gives her the highest enrollment per 10,000 total population of the region and a ratio that exceeds the national average by 30 percent. (Table 1). However, during the past two decades, Oklahoma's college enrollment has increased more slowly than the other three states of this region and ten percent under the U. S. average. Average enrollment per institution, which is the same as for the nation, is far below that of Louisiana.

Youngest of our four states, Oklahoma is most typically western in institutional pattern with 74 percent public controlled and 49 percent junior colleges. (Table 2).

Although 20 percent below the national per capita income figure, Oklahoma still exceeds both Arkansas and Louisiana. Despite this poor showing in per capita income, Oklahoma approximates the national figure

in per capita expenditures. (Table 3). This relationship provides an index of educational sacrifice (percent of personal income devoted to higher education) 34 percent above the U. S. average. Thus Oklahoma presents a picture of relatively high utilization and support of colleges.

However, high college enrollment results in relatively low educational expenditure per student which is below both Arkansas and Louisiana and 25 percent below the nation's norm. (Table 4). This situation, combined with a teacher-student ratio 23 percent in excess of the nation's average, and highest in the region, suggests emphasis on quantity rather than quality. However, Oklahoma's average instructional expenditures per staff member are highest in the region and slightly above the national average.

Texas, of course, contains more than half the area, population, enrollment and colleges of the region. In terms of enrollment per 10,000 total population she ranks below Oklahoma and is barely above the U.S. average. (Table 1). In rate of increase, she ranks above Oklahoma and below Arkansas and Louisiana, but still 29 percent above the nation's ratio. Average institutional enrollment exceeds the average for the nation by three percent, but is far below that of Louisiana.

In institutional pattern, Texas, like Arkansas is typical of the region in every respect. (Table 2). She leads the region in per capita income, but still remains nine percent below the U. S. figure. In contrast, Texas per capita expenditures on higher education fall below both Oklahoma and Louisiana and amount to only 79 percent of the nation's. (Table 3). Texas ranks 28 in per capita income and 35th in per capita expenditure. She is the only one of the four states that ranks lower in expenditure than in income. This relationship produces the lowest ratio in the region with respect to percent of personal income devoted to higher education.

Consequently, Texas does not appear too well in terms of qualitative measures. Her educational expenditures per student are lowest in the region and 26 percent below the nation's average. (Table 4). In fact, Texas ranks 44 among the states. Her instructional expenditures per staff member are only slightly below Louisiana, but substantially below Oklahoma and five percent lower than the U. S. average. Texas' teacher-student ratio exceeds the nation's by 14 percent.

Summing up, we may say that Arkansas is an economically poor state which seems to have worsened her situation by diffusing support among a relatively large number of small institutions. Relatively few of her citizens manage to enroll in colleges staffed by relatively low paid teachers.

Louisiana, more typical of the east, than the west, in institutional pattern, contrasts with Arkansas in that her college expenditures are concentrated in a smaller number of larger institutions. This along with

higher expenditures, in spite of larger enrollment, enables her to maintain a system which seems measurably stronger than that of Arkansas.

Oklahoma, typical of the newer states of the west, both in enrollment and institutional pattern, shows heavy emphasis both on the utilization and support of higher education. Large enrollment apparently somewhat neutralizes the quality that relatively heavy support might otherwise produce.

Texas, substantially richer, lags behind all save Arkansas in expenditure and behind all, without exception, in proportional sacrifice. Her average institutional enrollment is second only to Louisiana. Her institutional pattern is typical of the region. She ranks below all three of the other states in educational expenditures per student and below all save Arkansas in instructional expenditures per staff member.

Tax Exemption in Louisiana as a Device for Encouraging Industrial Development[1]

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In Louisiana, the Board of Directors of the State Department of Commerce and Industry, with the approval of the Governor, may contract with the owner of any proposed new manufacturing establishment, or with the owner of any proposed addition to a plant already existing in this state, for the exemption of the new plant or addition from both state and local ad valorem taxation of buildings and machinery. The present exemption program was inaugurated by an amendment to the Constitution of Louisiana, on November 5, 1946.

According to the Department of Commerce and Industry, "the purpose and intention of this amendment to the Constitution of Louisiana is to obtain new industries and to encourage the expansion of existing industries in Louisiana, with a resulting increase in employment, payrolls, and the stimulation of business generally, by offering the inducement of exemption from the ad valorem taxation of property, provided it is not competitive with old and established industries.

"The State of Louisiana considers these tax exemptions as a measure to equalize the tax burden of new industry in Louisiana with that of other states and as a contribution, so to speak, towards the cost of constructing and operating these new businesses during the period of exemption, in order to induce their location in Louisiana."[2]

Clearly then, the result expected from Louisiana's 10-year industrial tax exemption plan was new industries and additions to existing industries—new plants located in Louisiana and additions to the existing plants which otherwise would not have been developed and located in the state. How successful has this program been in accomplishing its purpose?

This paper attempts to answer this question by answering the following questions:

How many new plants and additions to old plants have been granted exemptions under the program?

Did the tax exemption have a significant effect upon the development and location within the state of these plants and additions?

[1]This paper is based upon research for a comprehensive study of Louisiana's industrial tax exemption program to be published by the Division of Research of the College of Commerce, Louisiana State University.

[2]*Louisiana's 10-Year Tax Exemption for Manufacturers*, Louisiana Department of Commerce and Industry, Baton Rouge, Louisiana, (brochure), pages 7-8.

How important is this subsidy as a cost-reducing factor to the firms which have received the subsidy in the form of tax exemption?

Would these plants and additions have been developed or have been located within the state in the absence of the tax exemption program?

What is the cost of the program to the state in terms of taxes forgiven?

Are the results obtained by the program worth the cost?

And, finally, should the tax exemption plan in Louisiana be continued?

Although Louisiana operated a similar tax exemption program between the years 1936 and 1941, this study covers only the current program and specifically those exemptions granted between December, 1946, when the current program was inaugurated, and June, 1950.

Louisiana is not the only state which offers tax exemption to new industries. Seven other Southern states—Alabama, Arkansas, Kentucky, Mississippi, Oklahoma, South Carolina, and Tennessee—allow tax exemptions in some form at the present time. The practice is found in Tennessee even though it is unconstitutional in that state. Three other states—Florida, Georgia, and Virginia—have recently repealed tax exemption laws or allowed them to expire. Only North Carolina and Texas in the South have not experimented at one time or another with this device. Some states outside the South, particularly in New England, have offered tax exemptions to new industries.

There is, however, an important difference between the exemption programs in these other states and the exemption program in Louisiana. In other states, enabling legislation has been passed by statute or constitutional amendment permitting state and local governments to grant exemptions to industries. Administration of the exemption authority has been left to the various state and local officials involved. As a consequence, no central direction of the program is provided and no central record of action taken is available. Louisiana is the only state in which such exemptions are administered by a state agency and are granted by formal contract between the state and the owners or officials of the new plant or addition.

This difference is important for this study. The contract files of the Louisiana Department of Commerce and Industry were the basic source of information for this analysis. Nowhere else in the United States is there so valuable a supply of information concerning the use of industrial tax exemptions.

Elsewhere, as in Louisiana, industrial tax exemptions have been granted on the assumption that they do induce new industrial expansion. Yet, little or no effort has been made by those granting exemptions to check their actual effectiveness.

The names and addresses of the officials seeking and receiving tax exemptions for their companies being available in the contract files of the Department of Commerce and Industry, these people could be asked the signifi-

cance they attached to the exemption in making the decisions that they made to establish new industries in Louisiana or to expand existing industries. Other information in the tax exemption contracts such as the type of product produced by each new plant or addition made possible further analysis of the effectiveness of the exemptions.

Contract information as to the value of the investment and the location of each plant receiving tax exemption made it possible to determine the specific taxes exempted in each case. These exempted taxes represent an indirect cost to state and local governments in the form of lost revenue, and an indirect subsidy to the recipient industries in the form of lower production costs. Like all economic activity, public and private, the soundness of Louisiana's industrial tax exemption program must be judged in terms of the results obtained for the cost involved.[8]

Exemptions Granted

As of June, 1950, contracts for 609 separate exemptions had been completed or were being processed by the Louisiana Department of Commerce and Industry, involving a total investment in new plant and equipment of $355,121,753.60. These exemptions had been granted to a total of only 429 separate firms, some firms having received more than one exemption. These facts were developed from a careful study of the contract files of the Louisiana Department of Commerce and Industry.

By contrast, the Department itself had reported the granting of 730 contracts involving $408,605,489.91 in new investments during the same period. Department reports were found to include 141 exemption applications which had been withdrawn or rejected, or were duplicates of applications already reported once. Another twenty exemptions had been granted which did not appear on the published reports of the Department.

Of the 609 exemptions granted, 322 or 52.9% were for new establishments and 287 or 47.1% were for additions to existing plants. The majority, 337 or 55.3% of the 609 were granted to firms producing commodities which are locally oriented by the nature of their market or material supply. Such plants include rice polishing, soft-drink bottling, ice, bakeries, concrete block plants, cotton gins, sawmills, etc. The other 272 exemptions (44.7%) were granted to firms producing products which may be considered regionally oriented. Such plants generally have a much broader possible choice of location and produce such goods as petroleum products, textiles, metal products, etc.

Distribution of the exemptions by value of the investment was as follows: $0-49,999, 206 exemptions, 33.8%; $50,000-99,999, 145 exemptions, 23.8%; $100,000-499,999, 158 exemptions, 26.0%; $500,000-999,999, 30

[8]The direct cost of administering the program, as well as the indirect cost of lost revenue, should be taken into consideration. The direct cost has not been great, however, and is omitted for the purposes of this brief paper.

TABLE I
DISTRIBUTION OF CONTRACTS BY CLASSIFICATION

Classification	Number	Percent
Nature of Industry		
New	322	52.9
Addition	287	47.1
Total	609	100.0
Economic Orientation		
Locally Oriented	337	55.3
Regionally Oriented	272	44.7
Total	609	100.0
Value of Investment		
$ 1-$ 49,999	206	33.8
50,000- 99,999	145	23.8
100,000- 499,999	158	26.0
500,000- 999,999	30	4.9
1,000,000 and over	70	11.5
Total	609	100.0

exemptions, 4.9%; and $1,000,000-up, 70 exemptions, 11.5%.

Firms Receiving Exemptions

A majority, 275 or 64.1%, of the 429 firms receiving the 609 exemptions established new plants within the state; additions only were made by 126 firms (29.4%); and 28 firms (6.5%) established new plants and made additions to existing plants.

Most of the firms receiving exemptions produce locally oriented products; and their new establishments and additions involved investments of less than $500,000. Locally oriented commodities are produced by 288 firms (67.1%) and 363 (84.6%) established new plants or made additions to their plants involving investments of less than $500,000. Regionally oriented commodities are produced by 141 firms; 18 firms made new investments of between $500,000 and $1,000,000; and 48 firms made new investments of more than $1,000,000.

Effectiveness of Exemptions

A questionnaire to the officials of the 429 firms receiving exemptions produced the following evidence as to the effectiveness of the exemption program in Louisiana. Usable replies were received from 259 (60.4%) of the 429 firms. The sample proved to be quite representative of the total. Of the firms replying, 159 (61.4%) had received exemptions on new plants only; 179 (69.1%) of the firms produce locally oriented products; and 218 (84.2%) received their exemptions on investments of less than $500,000. Replies to the questionnaire also revealed that 202 (78.0%) of the 259 respondent firms are domestic firms.

TABLE II
DISTRIBUTION OF ALL FIRMS AND OF FIRMS REPLYING TO QUESTIONNAIRE BY CLASSIFICATION

Classification	All Firms		Firms Replying to Questionnaire	
	Number	Percent	Number	Percent
Nature of Industry				
New	275	64.1	159	61.4
Addition	126	29.4	81	31.3
New and Addition	28	6.5	19	7.3
Total	429	100.0	259	100.0
Economic Orientation				
Locally Oriented	288	67.1	179	69.1
Regionally Oriented	141	32.9	80	30.9
Total	429	100.0	259	100.0
Value of Investment				
$ 1-$ 49,999	155	36.2	82	31.7
50,000- 99,999	104	24.2	69	26.6
100,000- 499,999	104	24.2	67	25.9
500,000- 999,999	18	4.2	11	4.2
1,000,000 and over	48	11.2	30	11.6
Total	429	100.0	259	100.0

The questionnaire was designed to secure evidence as to the influence of the exemption on the decisions of managers (1) to develop their new enterprises or their additions to existing operations, and (2) to locate their new developments within Louisiana.[4] In answer to the question, "did you take into consideration property tax exemptions at the time your company made its decision to expand its operations by building its new plant or expanding its existing plant," 195 respondents (75.3%) replied "yes;" 57 (22.0%) replied "no;" and 7 (2.7%) failed to respond to the question. Of the 195 replying "yes," 49 (25.1%) reported that they attached little or no significance to the exemption; 130 (66.7% of the 195) regarded it as a major factor in their developmental decisions; 14 (7.2%) regarded it as the deciding factor; and 2 respondents failed to reply to this question.

As a double check, the following question was also asked, "would the new plant or expansion of your company have been developed in any case, that is, in the absence of the availability of property tax exemption?" To this question, 182 firms (70.3%) replied "yes," and 36 (13.9%) were

[4]The process of industrial development involves two steps: (1) the decision to develop or establish a new plant or addition to an already existing plant, and (2) the decision as to where this new development will be located. These two decisions are so interrelated they are usually made simultaneously, nevertheless, two separate steps are involved.

"uncertain." Forty-one firms (15.8%) replied that they would not have developed their new plants or additions in the absence of the tax exemption.

Questions concerning the influence of the exemption on locational decisions were similar to the questions pertaining to developmental decisions. In answer to the question, "did you take into consideration the property tax exemption in Louisiana at the time your company made its decision to locate its new plant or expansion in Louisiana," 149 respondents (57.5%) replied "yes." Eighty-eight firms (34.0%) replied "no," and 22 (8.5%) made no response to this question. Of the 149 firms replying "yes," 23 (15.4%) attached little or no significance to the exemption; 117 (78.5%) reported the exemption among the major considerations which they took into account; eight firms (5.4%) considered the exemption the deciding factor; and one firm made no response to this part of the question.

The second question, "would the new plant or expansion have been located in Louisiana in the absence of the exemption program" produced the following replies: 168 firms (64.9%) replied "yes;" 44 (17.0%) replied "no;" and 47 (18.1%) were "uncertain" as to the action they would have taken in the absence of the exemption program.

Of the additional statistical evidence supplied by the questionnaires which can be presented within the space limitation here, perhaps the most significant is that indicating the nature and importance of those firms stating categorically that they would not have developed their new enterprises or would not have located in Louisiana. These are the industries which presumably would have been lost in the absence of the exemption program.[6]

Of the 41 firms which replied that they would not have undertaken their new developments in the absence of the exemption program, 34 are domestic firms and 7 are foreign firms. Thirty-one of the 41 produce locally oriented products and the other 10 produce regionally oriented products. The exemptions apply to new plants only in the case of 29 of these 41 firms, to additions to existing plants only in the case of 8 firms, and to both new plants and additions in the case of 4 firms. Ten firms received their exemptions on investments of less than $50,000; 14 firms received their exemptions on investments of between $50,000 and $100,000; 12 firms received their exemptions on investments of between $100,000 and $500,000; 2 firms received their exemptions on investments of between $500,000 and $1,000,000; and 3 firms received their exemptions on investments of over $1,000,000.

[6]In the absence of additional information to the contrary, it is assumed that firms answering "uncertain" would have made their investments in Louisiana whether or not they received the exemption.

TABLE III
DISTRIBUTION OF RESPONDENTS STATING THAT THEY WOULD NOT HAVE UNDERTAKEN THEIR NEW DEVELOPMENTS IN THE ABSENCE OF THE EXEMPTION PROGRAM

Classification	Number of Respondents	Number as a Percentage of Respondents so Replying	Number as a Percentage of all Respondents	Number as a Percentage of all Respondents in Sub-Class
Domicile				
Domestic	34	82.9	13.1	16.8
Foreign	7	17.1	2.7	12.3
Total	41	100.0	15.8	
Nature of Industry				
New	29	70.7	11.3	18.2
Addition	8	19.5	3.1	9.9
New and Addition	4	9.8	1.5	21.1
Total	41	100.0	15.8	
Economic Orientation				
Locally Oriented	31	75.6	12.0	17.3
Regionally Oriented	10	24.4	3.9	12.5
Total	41	100.0	15.9	
Value of Investment				
$ 1-$ 49,999	10	24.4	3.9	12.2
50,000- 99,999	14	34.1	5.4	20.3
100,000- 499,999	12	29.3	4.6	17.9
500,000- 999,999	2	4.9	0.8	18.2
1,000,000 and over	3	7.3	1.2	10.0
Total	41	100.0	15.9	

Of the 44 firms which replied that they would not have located their new developments in Louisiana in the absence of the exemption program, 35 are domestic firms and 9 are foreign firms. Locally oriented products are produced by 27 of these firms and regionally oriented products are produced by 17 of the firms. Twenty-eight of the firms received their exemptions on new plants only; 11 received their exemptions on additions only; and 5 firms received their exemptions on both new plants and additions. The exemptions covered investments of less than $50,000 in 12 cases; of between $50,000 and $100,000 in 11 cases; of between $100,000 and $500,000 in 13 cases; of between $500,000 and $1,000,000 in 2 cases; and of more than $1,000,000 in 6 cases.

The total investment involved in the case of the 41 firms replying that they would not have made their new developments is $10,391,676.68 and the total investment involved in the case of the 44 firms replying that

they would not have located their new developments in Louisiana is $23,196,290.17. Of these firms, 30 are the same in both cases, involving total investments of $9,165,402.76. This evidence suggests that, in the absence of the exemption program, Louisiana would have lost new investments worth approximately $25,000,000.00 out of total exempted investments of $355,121,753.60.[6] To state the same conclusion positively, Louisiana would seem to have definitely gained about $25,000,000.00 in new investments as a result of the exemption program. The majority of the firms replying that they would not have developed their new enterprises in Louisiana are domestic firms making relatively small investments in new plants to produce locally oriented products.

The great number of firms replying that they did take into consideration the tax exemption at the time they made their decisions to develop their new plants and to locate in the State of Louisiana does not invalidate this conclusion. Competent business management will always take taxes into consideration along with other cost factors in making such decisions. Yet, all studies with which this writer is familiar, that approach the industrial location problem from the cost standpoint, conclude that property taxes and thus property tax exemptions are seldom, if ever, significant enough as a cost per unit of output factor to influence locational decisions.[7]

Cost of Exemptions

Application of the specific tax rates that would apply to each individual plant or addition if it were not exempted produced the following results.[8] The annual loss in tax revenue to the state government resulting from the 609 exemptions covered in this study is $816,782.10. Parish governments lose $2,971,123.09 annually on parish-wide levies as a result of the exemptions. In addition, special taxing districts in the parishes lose another $960,426.34. Many of the plants receiving the exemptions were found to be located outside municipalities, but the municipalities of the state are losing $393,453.31 a year in much-needed revenue on those plants which are located within municipal borders. The total annual cost of the 609 exemptions covered in this study is $5,141,784.84 in lost revenue. Over the total 10-year period of the exemptions the cost to state and local

[6]This conclusion is based upon the assumption that the 170 firms not answering the questionnaire would not have been deterred from making their new investments in Louisiana. Limitations of space do not permit the inclusion in this paper of the analysis on which this assumption is based or the presentation of the alternative approach in which the results obtained from the returned questionnaires are projected to the 170 firms not replying.

[7]See, for example, J. S. Floyd, Jr., *Effects of Taxation on Industrial Location*, University of North Carolina Press, 1952.

[8]An assessment ratio of 40% of the value of the investment was employed in making these calculations. According to the Louisiana Tax Commission, which supplied the figure, this is approximately the average ratio of assessed value to the true value of industrial property within the state, and is the ratio which the Commission unofficially recommends. The law calls for assessment at 100% of true value.

TABLE IV

DISTRIBUTION OF RESPONDENTS STATING THAT THEY WOULD NOT HAVE LOCATED THEIR NEW DEVELOPMENTS IN LOUISIANA IN THE ABSENCE OF THE EXEMPTION PROGRAM

Classification	Number of Respondents	Number as a Percentage of Respondents so Replying	Number as a Percentage of all Respondents	Number as a Percentage of all Respondents in Sub-Class
Domicile				
Domestic	35	79.5	13.5	17.3
Foreign	9	20.5	3.5	15.8
Total	44	100.0	17.0	
Nature of Industry				
New	28	63.6	10.8	17.6
Addition	11	25.0	4.2	13.6
New and Addition	5	11.4	1.9	26.3
Total	44	100.0	16.9	
Economic Orientation				
Locally Oriented	27	61.4	10.4	15.1
Regionally Oriented	17	38.6	6.6	21.2
Total	44	100.0	17.0	
Value of Investment				
$ 1-$ 49,999	12	27.3	4.6	14.6
50,000- 99,999	11	25.0	4.2	15.9
100,000- 499,999	13	29.6	5.0	19.4
500,000- 999,999	2	4.5	0.8	18.2
1,000,000 and over	6	13.6	2.3	2.00
Total	44	100.0	16.9	

governments will be $51,417,848.40, assuming that all firms continue to operate throughout the 10-year period of their exemption and that tax rates do not change.

Conclusions

The evidence presented in this paper would seem to indicate the following conclusions: (1) Tax exemption as a device for inducing new industrial expansion which would not otherwise occur has produced meager results in Louisiana; (2) the cost of the program in terms of lost revenue is out of proportion to the direct results obtained; (3) the 10-year industrial tax exemption program for new industry in Louisiana should be re-evaluated.

The Responsibility of Parties in Congress: Myth and Reality

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The concept of responsible political parties is a little understood principle in American democratic government. This lack of understanding stems largely from the peculiar nature of the American democratic ideal in which conflicting principles of majority rule and minority rights are both highly prized. A generation and more ago a greater emphasis apparently was placed upon minority rights by most students, reformers and practitioners. They pointed to the oligarchic trends in American parties as paradoxically strengthening majority rule at the expense of minority rights. They sought to limit these trends by several means, such as direct primaries, local nonpartisan elections, popular election of party officers, extension of the merit system, the recall, and the weakening of party controls in legislative bodies. These reforms have since largely destroyed the old forms of party oligarchy at least at the national level. The repetition of the original rationalizations of the reforms has obscured this development.

In recent years there has been some reversal in emphasis.[1] Our expanding economy, our increasing role in world affairs, the growth of our "great society" have so increased the responsibilities of American government that the need for a coordinated and a consistent program (legislative and administrative) is of first importance. The formulation and execution in a democracy of such a program requires wide political support of effective leadership. This in other words means better disciplined and more responsible parties to increase the majority rule element in democracy.

A developing recognition of the need for greater party responsibility is most apparent among students of political process. An increasing literature stresses this need. Perhaps the most significant item is the *Report* of the Committee on Political Parties of the American Political

[1]A few students of the late 19th and early 20th century began to advocate greater party responsibility. Most prominent among these were Woodrow Wilson, Frank J. Goodnow, and A. Lawrence Lowell. Note Wilson's *Congressional Government* (Boston and New York, 1885); also Lowell's *Essays on Government*, (Boston, 1897).

Science Association.[2] The Committee gives as its *purpose* in submitting the *Report* the bringing about of a "fuller public appreciation of a basic weakness in the American two party system". Its *thesis*, the committee writes, is that "Historical and other factors have caused the American two-party system to operate as two loose associations of state and local organizations, with very little national machinery and very little national cohesion. As a result, either major party when in power, is ill equipped to organize its members in the legislative and executive branches into a government held together and guided by the party program. Party responsibility at the polls thus tends to vanish. This is a serious matter, for it affects the very heartbeat of American democracy. It also poses grave problems of domestic and foreign policy in an era when it is no longer safe for the nation to deal piecemeal with issues that can be disposed of only on the basis of coherent programs."

The *Report* in achieving its purpose and developing its thesis treats a number of problems of party organization from the local level up. But the primary focal point of party responsibility is seen in the legislature. This is recognized by the Committee in the phrase: "either political party, when in power, is ill equipped to organize its members in the legislative and executive branches into a government held together and guided by the party program". However, the Committee in the interest of brevity has failed first to provide any documentation for its thesis that parties in Congress are irresponsible[3] and secondly to provide any clear picture of existing agencies for party responsibility in Congress. In both cases the Committee has erred with the result that most students of political process are left with an impression that parties in Congress are irresponsible but with no knowledge of the degree of this irresponsibility. Moreover, they are told that "party organization is complex" and "varies from house to house and from party to party" and little more about the party agencies in Congress. This second omission is significant. Nowhere to the authors' knowledge is a clear and definite picture of party organization in Congress to be found. Because of this and because of the perpetuation of what were accurate descriptions in certain past periods, myths concerning party organization in Congress have crept into our literature and thought. The dispelling of these myths and the drawing of a clearer picture of the problem of party responsibility in Congress is the purpose of this article.

1. The Myth of "Invisible Government" in Congress

Perhaps the principal myth concerning party responsibility is that

[2]"Toward a More Responsible Two Party System" *American Political Science Review*, Vol. 44 (September, 1950) No. 3, Part 2 (Supplement). Referred to in this article simply as *Report*.

[3]See a rebuttal argument to this thesis by Julius Turner, "Responsible Parties: A Dissent from the Floor", *American Political Science Review* Vol. 45, (March, 1951) pp. 143-157.

parties are well organized in both houses of Congress, especially in the House; particularly that party agencies—i.e. caucuses, floor leaders, whips, and steering or policy committees—are powerful authorities controlling procedures, committee structure, and legislative schedules and that they frequently dictate to members how they shall vote. This myth has its source in the arbitrary machine control of the House for approximately the twenty-five year period between 1889 and 1915. During the first 20 of these years (1889-1910), the Speaker of the House maintained a rigid control over House organization and procedures.[4] In the next two Congresses (62nd and 63rd in 1911-1915) control was shifted to the caucus of the majority (Democratic) party. This shift was characterized as passing control from "Czar" Cannon to "King Caucus" by an observer of that time. He wrote: "The caucus is a cowardly contrivance to manacle the majority and enable a minority to control. Every member who participates in a caucus is bound to abide by the decisions of that caucus, and to carry out its decrees." He concluded that a bare majority of the caucus could bind, gag, and deliver the House.[5]

This view of party control and particularly of the caucus as the keystone of party control became dominant in the years immediately following. Since this was a period of flux in education with more and more emphasis being placed on the social sciences and a change of emphasis within the social sciences in which greater recognition began to be accorded to political science, economics and sociology, it was perhaps inevitable that many of the earlier text books on American government stressed the role of the caucus and other party instruments in Congress as agencies of an "invisible government".

Illustrative of this emphasis are a number of early texts. In Haines and Haines, *Principles and Problems of Government*, first published in 1921, this emphasis is carried into the third edition (1934) as follows: "The caucus as a device for the conduct of business within the party continues as one of the most powerful agencies of government. Not only does a small group in each party prepare the program of action for the party and submit it for adoption, but some very important government functions are, in actual practice, performed by the caucus, after which mere formal approval is publicly recorded. The caucus selects the Speaker of the House of Representatives, approves the selection of the Chairmen of all the important committees in Congress, and outlines the main policies to be formulated into law before a regular session of Congress convenes. And then, in solemn and formal manner, the acts of the majority caucus are passed as the acts of each House of Congress, the

[4]The Speakers during this period were Reed, Crisp, Henderson, and Cannon. In 1909, there was a slight curtailment of the Speaker's power when the Fitzgerald Compromise rules were adopted.

[5]Lyn Haines, *Law Making in America* (1912) pp. 9-12.

minority usually registering its opposition, the main lines of which have also been determined in the caucus of the minority members."[6]

Of much greater influence than the Haines and Haines book, the widely used Ogg and Ray, *Introduction to American Government* and its abbreviated *Essentials* have done much to fortify the myth of strong party control in Congress.[7] In the Sixth Edition, copyrighted in 1938, the book under the subtitle—"The 'Invisible Government' of the House"—speaks of an "invisible government" interlocked with and often surpassing in power the formal machinery of the House. Of the caucus, the authors write that "having brought into play agencies of the sort just mentioned"—i.e. steering committees, floor leaders, and whips—it need not meet as "frequently as in earlier days. But this does not necessarily mean any loss of its actual or ultimate control over the course of its members on the floor of the House, or in the case of the majority caucus, over the business that the House transacts."[8] Under the topic "the power of the caucus," Ogg and Ray write: "Notwithstanding that a great deal of the business transacted by the House has no party aspect, everything, indeed, is organized on a party basis. Back of all else stands the caucus, dominated by a handful of experienced leaders well versed in the intricacies of House procedure and skilled in the art of managing the rank and file."[9]

Later editions of Ogg and Ray tone down the emphasis on the caucus. They write in the Ninth Edition: "From the fact that nowadays both parties convoke their caucuses far less frequently than formerly and leave decisions to be made more largely by a few leaders, it has been deduced that the caucus is no longer a significant factor in the legislative process; and certainly it is true that the device has waxed and waned through the years." They add that "The emphasis placed upon the point by some observers is, however, exaggerated" and further that "the caucus even as a deliberative device is not . . . dead. Rather, it stands silently in the background always capable of being called into action; and if a handful of managers seem to be running the party's affairs in the House and making its decisions for it, closer examination will show that they, after all, serve only as caucus agents and presumably spokesmen."[10]

A number of texts of more recent origin have served to keep alive the myth of party control in the House. Claudius O. Johnson, *American National Government* and Ferguson and McHenry, *The American Sys-*

[6] p. 231.

[7] The *Introduction to American Government* was first published in 1921 by the Century Company.

[8] Sixth edition, 1938. p. 351.

[9] Op. cit. p. 353.

[10] *Introduction to American Government—The National Government.* (New York, Appleton-Century-Crofts, Inc. 9th ed. 1948) pp. 325-326.

tem of Government are but two examples.[11] Johnson writes: "Members of the party delegation in the House are expected to vote on important party questions before that body in conformity with the decision of the party caucus." He emphasizes this by quoting the rule of the Democratic Caucus which permits the caucus to bind its membership, thus "in deciding upon action in the House involving party policy or principle, a two-thirds vote of those present and voting at a caucus meeting shall bind all members of the caucus; *Provided*, that the said two-thirds vote is a majority of the full Democratic membership of the House: *And provided further*, That no member shall be bound upon questions involving a construction of the Constitution of the United States or upon which he made contrary pledges to his constituents prior to his election or received contrary instructions by resolution or platform from his nominating authority."

He adds that "The ordinary member of the House cannot afford to act contrary to the decisions of his party caucus. If the caucus votes 100 to 50 for the support of a party principle or measure in the House, the minority must yield to the majority, at least to the extent of voting for the project on the floor of the House. There are usually some members who will not be bound by the caucus; but they are discriminated against in committee assignments, their pet measures are ignored, their constituents will be encouraged to choose other representatives, their social life is likely to be restricted, and their opportunity to rise in the House is just about nil."[12]

Finally the Ferguson and McHenry book, one of the most popular of the recent texts on American government, says: "One of the more crucial matters determined in caucus or conference is the binding of members to vote on the House floor according to the caucus decision. Both parties, upon occasion, attempt to bind their members, but there is often much insurgency."[13]

[11]Many examples might be given, for most texts on American Government have followed the treatment of the earlier texts. Among these are such well known books as Orth and Cushman, *American National Government*, (New York, F. S. Crofts & Co., 1935) pp. 443-444; Young, Manning and Arnold, *Government of the American People*, (D. C. Heath & Co., 1947) pp. 178-179; Munro, *The Government of the United States*, (New York, MacMillan Co., 5th ed., 1946) pp. 453-456; Dimock and Dimock, *American Government in Action*, (New York, Rinehart & Co., 2nd ed., 1951) p. 358; Zink, *Government and Politics in the United States*, (New York, MacMillan and Co., 3rd Ed., 1951) pp. 398-400; and Anderson *National Government* (New York, Henry Holt and Co., 1946) pp. 188-189. The recent text by Carl Brent Swisher, *The Theory and Practice of American National Government* (Houghton and Mifflin Co., 1951) may also leave with uncritical students the impression of a strong caucus, pp. 293-294.

[12](New York, Thomas Y. Crowell, 2nd ed., 1947) p. 290.

[13](New York, McGraw-Hill Book Co., Inc., 2nd ed., 1950) p. 262.

Unreconciled Contradictions to the Myth in Texts

Most texts while stressing party control through the instrumentalities of the caucus and other party agencies at the same time include a number of rather glaring and unreconciled contradictions to the myth. There are frequent notations of the extreme rareness of the caucus meetings and of "straight party votes", of the prominence of mavericks and *blocs*, and of the absence of a focus of control. Ogg and Ray, for illustration, write in the Sixth Edition: "Needless to say, the power of the caucus and its agencies, and the ways in which the power is employed, stir much discontent. The stifling of individual initiative, the penalizing of independence, the relentless use of the 'steam roller' drive spirited members to insurgency and inspire attempts to build up *blocs* which cut across caucuses and party lines."[14] A little later in the paragraph, they write: "Once it was the speaker who guided. Again, it was the speaker and the rules committee; still again, the ways and means committee; and now it is chiefly the caucus and its agents, which means that leadership is, and for a good while has been, 'in commission' ". In a footnote in support of this view they quote Lindsay Rogers, writing in February 1924: "Speaker Cannon could promise Roosevelt that the House would do certain things, and the things would be done. There is no one now in the House to make such promises. Its control is shared by the floor leader, the speaker, the rules committee, the committee on committees, the steering committee, and the chairman of the more important legislative committees." They (Ogg and Ray) add: "Small wonder that the observer, trying to locate the ultimate focus of control, is baffled, *or that the House is often snarled up and unable to get anywhere.*"[15]

In their Ninth Edition while emphasizing the role of the caucus as quoted above they write: "Whereas, during the first administration of President Wilson the Democrats considered every important measure in caucus, with obvious effect upon the remarkable legislative record of that period, during their long tenure from 1933 to 1946 they have held almost no caucuses at all; (except for matters relating to House organization) and the Republicans, although keeping their 'conference' more alive, have of late convoked meetings only very irregularly."[16] Moreover, they add "in their present mood, most Congressmen prefer to be free agents, voting as they please rather than under caucus or other directives; many indeed do not hesitate to identify themselves with bipartisan *blocs*, to which they indeed may regard themselves as owing first allegiance."[17]

These several quotations from Ogg and Ray will serve to illustrate the

[14] *Op. cit.* p. 354.
[15] *Ibid.*, pp. 354-355. Italics ours.
[16] *Op. cit.* p. 326.
[17] *Ibid.* pp. 327-328.

confusion and the contradictions with which party control and the caucus as the center of that control is treated in most American government text books.[18] In the first passage quoted above from page 354 of the sixth edition, Ogg and Ray have recognized that there is insurgence and a tendency towards the building of *blocs*. They have however, placed the cart before the horse. They give strong party control as the cause of the insurgency and tendency towards *blocs*: "the stifling of individual initiative, the penalizing of independence, the relentless use of the 'steam roller' ". Actually insurgency and the existence of *blocs* are manifestations of weak party control. They result from our relatively undisciplined and irresponsible parties, from sectionalism and from the fact that our party agencies in Congress lack the power to determine party policy and lead party members. This they almost recognize when they write in the footnote on page 355: "Small wonder that the observer, trying to locate the ultimate focus of control, is baffled, or that the House is often snarled up and unable to get anywhere".

From the quoted passages from the Ninth Edition, it should be clear that the caucus and other party agencies were exercising little leadership. There is a recognition of the rareness of caucus meetings and of the independence of congressmen even to the point that allegiance to *blocs* is frequently greater than to party—yet the authors cling to the myth of party caucus control. They state (as quoted above) that the view that the caucus is no longer a significant factor in the legislative process is an exaggerated one—that even as a deliberative device it is not dead but stands in the background capable of being called into action and that closer examination will show that party managers in the House are but caucus agents and spokesmen.[19]

2. *The Reality of Party Irresponsibility in Congress*

The reality of party responsibility for legislation is different indeed from the picture generally drawn. Actually there is no such thing as an official "Democratic" or "Republican" position on legislative matters. Theoretically such a position should be a part of the business of the party's National Convention but, since these are held only every fourth year, they cannot keep the party position on issues abreast of the times. Moreover, they are unrepresentative and do not provide an adequate link between the Congressional party and the party organization proper. Furthermore the National Committees of the parties have no recognized

[18]The authors have not singled out the Ogg and Ray book for criticism but rather have used this book for illustrative purposes for several reasons all to the credit of the text. These reasons in brief are that the book has long been the most widely used of all texts on government and has had an excellent reputation for accuracy. Because of its wide use and excellent reputation it has had more influence on teachers and students of American government than any other text. Similar contradictions to those of Ogg and Ray may be found in most texts.

[19]*Op. cit.* pp. 325-326.

function of determining, or even of advising on, Congressional party policy. Thus party organization in Congress is largely divorced from national party organization proper. Finally any party ties that are likely to aid in reelecting an individual Congressman or senator are generally with local or state agencies.

When we say there is no such thing as a "Republican" or "Democratic" position on legislation we are interpreting the reality behind the rituals of Congressional party organization. Congressional party officers play a traditional role which suggests a norm of party legislative unity. At various times in the past this norm was temporarily reflected in reality in one party or the other in one house or the other and sometimes for several of the four separate caucuses at once. Undoubtedly many members of Congress about thirty years ago thought of party regularity as the usual, as well as the desirable, practice and regarded insurgency as an exceptional problem to be dealt with by discipline, at least if expediency permitted. Even then this orientation must have been produced as much by experience with local-level party organizations as by actual Congressional experience. Any expectation of party unity and of discipline for legislative insurgency could hardly exist among members who have served in recent decades.

Historical analysis, and especially the researches of Clarence A. Berdahl,[20] shows that party discipline in relation to the *legislative voting records* of members has always been an obscure matter in Congress. Aside from the period of machine control of the House under a series of Republican speakers before 1911 and the relatively smooth operation of the Democratic caucus 1911-1915, it is difficult to find any period in which party discipline was certain to be applied for speaking and voting in opposition to the position of the party leaders. In the many instances which Berdahl has examined in which party "membership" (and hence the right to preference in committee assignments) was at stake, the Congressional voting record of the member is hardly ever seriously involved.[21] Discipline was seriously contemplated or actually applied in a number of

[20] *American Pol. Sci. Rev.*, Vol. XLIII (1949), pp. 309-321, 492-508, 721-734.

[21] In 1868 Senate Republicans snubbed some of their members who had voted to acquit President Johnson and seem to have fired a patronage employee endorsed by one of them. Some "Liberal Republicans" were discriminated against by the Senate Republicans in 1872. In 1906 Senator Patterson was at least snubbed by Senate Democrats for supporting an administration treaty. In 1933 House Republicans punished a colleague for "continuous attacks on President Hoover." Democrats who in 1909 supported the Republican Speaker against efforts to liberalize the House rules were severely reprimanded by their colleagues, but since the Speaker then controlled all committee assignments no actual punishment was possible. In 1939 House Democrats verbally condemned colleagues for voting with the Republicans and the Whip merely "contemplated" dismissing seven of his assistants for disloyalty. These seem to be the only cases of "discipline" in which behavior *in Congress* was the primary issue.

cases which involved events external to Congress such as running under another party label or publicly opposing the party's presidential ticket. Even in this matter of loyalty to the party label in elections the experience of the last twenty years would hardly support any expectation that discipline by Congressional party action is now likely.

Party organization in Congress as elsewhere is so informal that little can be determined by formal rules. It would appear however to be significant that formal claims of the right of party caucuses to bind members were expressed more and more rarely as the present century advanced and have now become almost obsolete. The Republican Conference Rules in the Senate now specifically disavow the binding effect of conference action. This appears to be the unwritten understanding at the present day in the Senate Democratic organization and in the House Republican organization except in the matter of the election of officers of the House. There still remains the formal rule of the Democratic Caucus in the House under which action taken by a two-thirds vote is supposedly binding on members, subject to certain stated excuses. A Congressman of long experience informs us that he can recall only "three or four" caucuses called with the idea of binding members in the last two decades. Another Congressman regarded as authoritative in procedural matters speaks of the caucus as "completely abandoned" except for the organization of Congress. The attitude of many Democratic members is indicated by the fact that a Democratic Congressman of long experience evidently failed to remember the formal caucus rule since he merely spoke of such practices as it embraces as being contrary to the constitutional position of members of Congress. The last occasion on which a two-thirds vote was actually secured in the Democratic House Caucus to bind members appears to have been at the opening of the 81st Congress. This related only to a contemplated change in the rules of the House.

Party discipline is never very effective in a democratic legislative body when any large body of insurgents within a party appears. Expediency dictates a cautious approach to such behavior on the part of party leaders. This is clear enough on a number of occasions even in Great Britain, where the general practice of bloc voting by parties is well established and where any lone insurgent would expect to have to resign from his party. On successive and repeated occasions in the present century the Republicans and Democrats in Congress have had to adjust to situations in which the serious enforcement of discipline might have meant the sacrifice of a nominal party majority. For two long periods the nominal Republicans had large blocs of "Progressives". Although some discipline was exerted over these groups it came to be grounded on failure to publicly support Republican candidates rather than on legislative votes. Eventually the Republican organization came to ignore even public de-

fections of members from support of the party's presidential candidates. Early Democratic problems of discipline were less conspicuous. Since 1937, however, the internal division among the Democrats has been so acute as to preclude any pretense at discipline.

Perhaps the nearest approach to an official party position on legislative matters occurs when the party holds the presidency. This is particularly true when the president is a strong leader, when his party has a majority in both houses, and when emergency conditions prevail. Under these circumstances, however, the president's support is likely to be more bi-partisan than partisan. An example of the combination of these three conditions is found in the early years of Franklin D. Roosevelt's tenure of office as president. Illustrating this bi-partisan tendency, E. Pendleton Herring writes of the 1st session of the 73rd Congress: "The Chief Executive became the chief law-maker. He applied to Congress the 'discipline and direction under leadership' that he saw demanded in the popular mandate of his election . . . . Congressmen of both parties were willing to follow the President's lead . . . . At the end of the session, he was able to thank both houses for a 'spirit of *teamwork' between the legislative and executive branches* that in most cases '*transcended party lines*' ".[22]

Even under the above circumstances favorable to the building of a party position on legislative matters, party lines frequently will fail to hold. Factions and *blocs* play a larger role in the determination of how a Congressman or Senator will vote than party affiliation. In the session of Congress just referred to and in which the Democrats had a good majority in both houses, had just regained control of the government after 12 years, possessed an unusually strong leader in Franklin D. Roosevelt (who was further strengthened by the advantage of a huge reservoir of patronage), party solidarity was uncertain and party control was limited. Blocs such as farmers', the veterans', and the inflationists' gained strength as the session progressed and at times threatened the President's program.[23] The role of *blocs* in this session of Congress is illustrated by the fight of the veteran's *bloc* against the President's economy measure. Early in the session, March 10th, President Roosevelt requested authority to make cuts in the salaries of governmental employees, in pensions, and in other compensations paid to ex-service men. A caucus of the Democratic Party members in the House on the proposed measure was requested by Representative Woodrun, a leader of the veteran's *bloc*. At this caucus the Speaker failed to align the two-thirds of the party members necessary to bind the party behind the President's economy program and only narrowly prevented the endorsement by the Caucus of an amendment by Representative Browning de-

[22] *Am. Polit. Sci. Rev.*, Feb., 1934, Vol. XXVIII, No. 1 pp. 65-83. Italics ours.
[23] *Ibid.*, p. 82.

signed to emasculate the program. When the proposal reached the floor of the House, many of the Democrats who in the secrecy of the caucus had viewed the bill unfavorably changed their position but it was Republican support that resulted in its passage. The final vote on the measure was 266 (Dem. 197, Rep. 69) to 138 (Dem. 92, Rep. 41, F.-L 5). Included among the Democrats voting against the bill were the assistant floor leader, two members of the steering committee, and four party whips.[24]

There is no evidence in recent years of *control* by party organizations in Congress over their members in the sense of restraint which prevents members from taking what they would otherwise regard as expedient positions. It is no contradiction to this finding that the parties in Congress remain statistically significant classifications. A recent meticulous study by John Turner of statistical correlations of Congressional voting with various groupings finds party cohesion to be greater than that of the elements in the metropolitan-rural and "foreign-native" dichotomies and in certain sectional classifications.[25] His conclusion, however, is expressed in a form which we regard as a begging of the question: "Party pressure seems to be more effective than any other pressure on Congressional voting, and is discernable on nearly nine-tenths of the roll calls examined."[26]

Turner's procedure relies in the main on the determination of a party's cohesion in voting, the likeness of the vote distribution in one party with that in the other on any single issue, and the presence or absence of "significant" differences between parties or other groupings on given votes. He also determines the "loyalty" of a given Congressman to a party or other grouping. For cohesion he uses Rice's index. This is obtained by dividing the majority within a party or other grouping on a roll call by the total of party or group members voting. Fifty is then subtracted and the result multiplied by two to give a scale running from 0 to 100. It will be noted that this measure does not necessarily indicate anything as to the existence of "party pressure" in his terms or "control by party organizations" in ours, although it would be an aid in measuring the effectiveness of such control once the existence of the latter were independently determined. Any self conscious grouping of politicians, even if merely friendly, traditional, and historically accidental might be expected to show some cohesion. It need cause no surprise that American parties, admittedly amalgamations of various regional or special interests, show somewhat higher cohesion than various abstract groupings of such interests. Turner's index of likeness is obtained by subtracting

[24] *Ibid.*, pp. 70-73.

[25] *Party and Constituency: Pressures on Congress.* Baltimore: The Johns Hopkins University Press, 1951.

[26] *Ibid.*, p. 23.

the percentage of the "yea" votes of one group on a given issue from the percentage of "yea" votes of another group on the same issue and subtracting the result from 100. For our present purposes it is no more and no less determinative than the index of cohesion and is subject to the same comments.

The weakness of Turner's statistical computations as evidence for his conclusions as verbally expressed in terms of party "pressures" is even more apparent in his use of the presence of significant differences. The number of issues on which parties or other groups differed significantly is tabulated for several sessions. Determining that two groups differed significantly by the Chi-square test here employed amounts only to saying that the chances are less than 1 in 100 that two purely random groupings would differ to the extent evidenced. One would expect the behavior of even the loosest aggregations of politicians rather frequently to meet this test.

The index of loyalty used by Turner, which is merely the proportion of votes on which a party or group member voted the same way as a majority of his party or group, reveals most clearly the begging of the question of the reality of party controls which we have already called attention to. Loyalty to what? To the position that turned out to be the majority position among the group votes actually cast. Curiously enough Turner chooses this point of reference because he regards it as a "fixed standard."[27] If, as we contend, there is strictly no party position at all, there will still be a majority within a party on any vote cast, aside from the rare possibility of a tie. Actually Turner's computations of "loyalty" distributions among partisans (as well as his figures for party cohesion) are very interesting data in regard to the nature and significance of American political parties but they can in no sense be evidence of a party position enforced (admittedly very weakly) by a party organization.

In the foregoing analysis of Turner's misinterpretation of his very useful findings we have only pointed out a common error of reasoning which constantly masks the real extent of the loss by modern American Congressional caucuses of real control over their members. If there is control by an organization over its members, cohesion or loyalty or unlikeness of behavior between opposing groups are concepts useful in measuring its effectiveness. Whether there is such control or not, such measures, however, are likely to give positive results for any group that has an historical basis of association. Because of American political practices of earlier periods and because of the obvious discipline at the present day within such foreign parties as those of Great Britain, this question has constantly been approached with the assumption that a party always imposes a legislative program on its members and that all that needs to

[27] p. 78.

be investigated is the effectiveness of its enforcement. When such control has gradually disappeared without spectacular events, as was the case in the American Congress during the nineteen-twenties, no measures of the *effectiveness* of control will show directly that control has ceased. There is no way to demonstrate the breakdown of control within a group which still shows some cohesion except to assert the absence of control and to look for evidence to contradict the assertion. This assertion we have made and we submit that at the present time and probably for at least two past decades there is no evidence to refute our hypothesis.

We rest our finding that official party positions on legislation no longer exist on two basic considerations: (1) The right of parties to make such binding decisions (once hardly questioned among politicans) is widely denied by recent members of Congress, is specifically disavowed by the formal rules of one of the four caucuses, is not asserted for two of the others, and is only asserted in what has long been an unworkable form by the fourth. (2) If such authority were in fact being exercised (unknown to the party rules) by the leaders of the party organizations there would inevitably be two forms of evidence of such a practice, neither of which actually exists. First, in each party there would be a small group of prominent leaders who themselves always took the same position on legislation. It is patently absurd to suppose that a group of party leaders could hold members in line in any significant fashion if they themselves voted individualistically. Actually it is notorious that speaker, floor leader, whips, and leading chairmen of committees are frequently in conflict with each other. Second, formal policy statements or reminders would inevitably be issued from time to time in written form. There is no body which issues such guides to voting in either house though the Senate Republican Policy Committee has issued generalized statements of policy of a sort more suitable for the Party's propaganda among the voters than in regulating the voting behavior of members.

3. *What Is the Actuality Behind Formal American Partisanship?*

It is useless to deny that there are present in American politics real partisan groupings which can be called the Democrats and the Republicans but it is equally useless to attempt precisely to define them. The persistence in Congress of *official* party organizations which have ceased to have legislative policies has of necessity left the *real* or empirical parties without formal organization or recognized leadership. There is undoubtedly a real Republican party and a real Democratic party in Congress, however impossible it may be in the total absence of relevant formal criteria to specify their exact memberships. Each is only a fraction (perhaps usually a major fraction) of the official party of the same name. Neither is necessarily represented by *any* of the official agencies of the corresponding formal party. The desire to preserve or to acquire formal majorities of seats has led to the constitution of official party

agencies almost wholly by the non-controversial and accidental principle of seniority.

Since formal organization and control for the *real* parties is necessarily lacking at the legislative level, their basis for existence must be entirely a matter of effective partisanship in the constituencies. There is much evidence that the traditional party designations are real differentiations of political viewpoints in some constituencies while they totally lack this character in others. An hypothesis that deserves careful investigation suggests that the two traditional parties offer a real differentiation in policy in those areas where both organizations are strong and where each commands respect at least among some population groups. The party designation, however, is relatively meaningless in those districts where only one party has a significant and respected organization. If the reality of partisanship is created in certain constituencies and is merely reflected in the partisan behavior of representatives elected from such constituencies, we must look in general outside of Congress for the formulation and promulgation of the policies with which such partisan trends may be correlated. We might then expect real partisan positions to be formulated and expressed by such extra-congressional agencies as the various ephemeral "spark-plug" or "ginger groups" like the Liberty League or the Americans for Democratic Action or sometimes by the executive administration.

We have happened upon data which strongly suggests a differentiation of highly consistent real partisanship concealed by the formal framework of the official Congressional parties. The *ADA World* for October 1951 published a list of evaluated voting records for members of the House of Representatives in the first session of the 82nd Congress. Each member received a commendation (plus mark) or condemnation (minus mark) for his vote on each of 13 issues on which the ADA had taken a position. Superficially considered, the table showed no great consistency of Democratic virtue or Republican vice by the ADA standard. In line with the hypothesis earlier referred to, however, large groups showing distinct partisan opposition could be isolated. For this purpose the presence of members of both parties within the Congressional delegation of a state was taken as a rough indication that both party organizations were active within constituencies of that state. As shown in Table I, of the twenty Democratic delegations from states which also had elected Republicans 15 showed a consistency of 85% or more in voting for ADA approved positions. In five of these cases the ADA positions had received 100% Democratic support. Consistency of Republican opposition to the ADA in these state delegations was not as great, but it was quite generally high. In most of the five states having two-party delegations where the consistency of Democratic support for ADA positions was less than 85% the presence of some Republicans in the Con-

gressional delegation is rather clearly not a true index of active Republican organization in all constituencies. Table II shows the record of one party Congressional delegations. In these cases no similar consistency is shown. In most instances where rather high figures of partisanship appear, there are actually two effective party organizations in the state even though the composition of the Congressional delegation in question did not reflect this fact.

TABLE I

Two Party Delegations

	Percentage Democratic Vote for ADA Position	Percentage Republican Vote Against ADA Position
Democratic Percentage 85 or Above:		
California	88	89
Connecticut	96	62
Illinois	100	91
Indiana	100	88
Massachusetts	89	74
Michigan	100	85
Minnesota	94	81
Missouri	85	78
Montana	92	92
New Jersey	100	53
New York	98	72
Ohio	89	82
Pennsylvania	97	78
Washington	92	69
Wisconsin	100	69
Democratic Percentage Below 85:		
Colorado	81	96
Kentucky	74	75
Maryland	76	86
Oklahoma	53	96
Tennessee	55	84

4. The Practical Implications for Reform

Most recent students who (like the present authors) regard the inconsistencies of formal partisanship in Congressional voting as unfortunate from the standpoint of effective democratic representation and of consistency of national policy have given much attention to structural reforms. These have generally related to the Congressional caucuses themselves or at least to the party organizations at the national level. We believe that the foregoing analysis has shown that this approach to

TABLE II

	One Party Delegations Percentage Democratic Vote for ADA Position		Percentage Republican Vote Against ADA Position
Alabama	39	*Delaware	92
Arizona	54	Idaho	85
Arkansas	30	Iowa	85
Florida	25	Kansas	92
Georgia	24	Maine	74
Louisiana	21	Nebraska	94
Mississippi	15	New Hampshire	74
*Nevada	92	North Dakota	71
New Mexico	30	Oregon	79
North Carolina	29	South Dakota	84
Rhode Island	96	*Vermont	73
South Carolina	22	*Wyoming	100
Texas	31		
Utah	88		
Virginia	28		
West Virginia	94		

*These are one member delegations.

the problem of effective partisanship as an aid to the representative process is not likely to be fruitful. It is patently impractical to impose voting discipline upon such groups as now bear the formal partisan labels in Congress and it is inconceivable that Congressmen elected with the present kinds of local organizational support would take steps to subject themselves to such discipline. The process of disintegration of effective partisan discipline at the national level has gone much too far to be reversed by organizational techniques exerted primarily at that level.

The problem of effective and responsible partisanship in American politics has become predominantly (as it always is ultimately in democratic politics) a problem to be solved, if at all, at the constituency level. Quite probably the essential defect of American partisanship is the very large number of constituencies (and those not merely in the "one party states") where all effective politics goes on under the label of only one of the national parties. There is no magic whereby the complete strangeness of (say) the "Republican" *label* in some constituency will cause that consistency to choose only representatives of a *school of thought* elsewhere identified as "Democratic". Until the existing parties have a much more universal geographic area of operation than they have at present the essential formalism of party designations in Congress may be expected to continue. If a preponderant number of constituencies,

on the other hand, should become genuinely two-party areas, the re-establishment of the parties in Congress as genuine voting units which could bear a responsibility for policy, would probably take place without fanfare and with the general acquiescence of Congressmen.

The Legal and Political Determinants of American Federalism

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At a time when the peoples of Europe, Central Africa, Pakistan, and other areas are embarking or proposing to embark upon new experiments in federal government, it seems worth while to look backward for a moment and examine the growth of that system in the land of its birth. The federal system in the United States was the pioneering effort in that scheme of governance and has furnished the model upon which a number of other countries have built their own governmental forms. In this America may take a certain pride; but equally it must assume a certain responsibility, for what it has produced here thus achieves an importance beyond the limits of its own boundaries and our experience with this system may provide useful lessons elsewhere. It is proposed in the present article to examine the American experience with this federal system of government and to inquire into the modifications in it that have been brought about by time, politics and judicial decision. The question we shall put is merely this: have these changes produced a system that is essentially or significantly different from the original system, or from the present system as we suppose it to be? And if so, how so?

I do not propose to deal with every aspect of American federalism. I shall be content merely to offer some comments on what has happened to the system and to make certain observations on the significance of these developments. I shall approach the problem from both a legal and a political point of view, and in that order.

Let us begin our inquiry then by a brief examination of the conception of federalism that has been customary—or even stereotyped—in the United States. Such a description would run something as follows: The constitution divides the powers and functions of government between the national government and the states. Each of these two separate organs of government is assigned a certain sphere of action and is sovereign within this sphere, subject to certain specific prohibitions in the document itself. Neither government may perform the functions assigned to the other and this distribution of powers may be altered only by a process of constitutional amendment in which both must consent to the change. The method by which powers are distributed is this: the constitution expressly assigns to the national government a list of seventeen functions and concludes by empowering it to do whatever is "necessary and proper" in order to perform these functions. Everything

else not therein listed is reserved to the several states, implicitly in the original constitution, and explicitly in the tenth amendment. The states are left with considerable powers, although these powers are not specified.

As a rough statement, this is probably good enough; at least it is one to which most Americans from the beginning down to today could have subscribed. But this very acceptance suggests that it is not a very precise description. It does not provide answers to many of the difficult questions that have arisen and it ignores one fundamental clause in the constitution to which I shall refer below.

This distribution of powers has had a long and varied history, which we need not here recount in detail. The framers of the constitution, having disagreed so frequently during that long summer about what ought to go into that document, continued to disagree on what had gone into it. We can find a series of disputes in the first generation concerning this division of powers, both with respect to the extent of power to be exercised by each government and with respect to the manner in which these powers were distributed. And the controversies of the first generation were continued by the second and third. Some desired a strong national government and sought constitutional interpretations to justify their views; others preferred to restrain that government in favor of the states and sought interpretations that would produce that result; still others preferred that neither government should act with vigor and used the constitution in various ways to restrain them both. As a result of this diversified pattern of opinion and the varying success of the proponents of different views, our constitutional history has followed an uncertain path. We have experienced a succession of periods in which first the national government and then the states have held the dominant place. The period in which John Marshall served as Chief Justice was an era of growing nationalism and of a fairly consistent assertion by the Supreme Court of the predominance of national power. Under Chief Justice Taney the emphasis seemed to be turned upon the states and we passed through a period in which national powers were less strongly asserted. After a period of some confusion following the Civil War we could see a new period of national prominence under Theodore Roosevelt and Woodrow Wilson; then a clear denial of national power in the Republican period between the wars; then a renewed emphasis on the national power with the transition from the "nine old men" to the "nine young men" of the Roosevelt Court.

What enabled the Court to find these different, and frequently inconsistent, lines of approach was a set of doctrines that were accumulated sometime after the Civil War, a set of doctrines that displayed in several different areas two parallel lines of decisions, one of which would sustain the exercise of national power and the other of which would forbid it. The Court could sustain a federal regulatory tax by seeing only that

it was a tax, or it could throw out such a tax by observing that it was really a regulation; it could uphold an economic regulation by the federal government by conceding that it regulated commerce, or it could throw it out on the ground that it regulated things other than commerce or that the commerce was not properly interstate. The question that lay at the heart of the problem was this: does the mere fact that the states exist and are given certain, though unnamed, powers by the constitution act as a limitation on the exercise by the federal government of those powers that are given to it? In other words does the national government have the power to carry out its assigned functions regardless of their encroachment on matters otherwise deemed to be reserved to the states? Or does the point at which such exercise of national power has an effect on state functions serve as a limit beyond which the national government cannot go? This idea that the existence of state powers did serve as a limitation on the national government was the doctrine of dual federalism,[1] a doctrine that found many supporters, both on the court and off, but one that is most difficult to justify from the words of the constitutional document itself.

Now the doctrine of dual federalism was primarily a device for preventing Congress from doing certain things; it was not a device for upholding state regulation but rather one for prohibiting national regulation. Thus Congress was prevented from regulating a sugar monopoly on the ground that it sought to regulate manufacture, which was not commerce but was among the powers reserved to the states;[2] it was prevented from using its taxing power in such a way as to regulate agriculture, a subject which, not being expressly delegated to Congress, was reserved to the states.[3] And in the most famous and typical case of all Congress was declared to be incompetent to prohibit from interstate commerce the products of child labor on the ground that such a use of the commerce power was in reality a regulation of labor, a subject not mentioned in the constitution and therefore reserved to the states.[4]

The doctrine of dual federalism was an extremely effective instrument for curtailing federal government action, although the inconsistencies in its application became ever more glaring as time passed. If it had been adhered to strictly and continuously the national government would very probably have been left without power to regulate those matters which in so large a country and in so complex an economy urgently demand a standard and national regulation. But it was never followed consistently and it has now been abandoned and this abandonment con-

[1]The term and the original analysis are those of Edward S. Corwin. See *The Twilight of the Supreme Court*, New Haven, 1934, ch. 1. Also his *Constitutional Revolution Ltd.*, Claremont, Calif., 1941.

[2]United States vs. E. C. Knight Co., 156 U.S. 1 (1895).

[3]United States vs. Butler, 297 U.S. 1 (1936).

[4]Hammer vs. Dagenhart, 247 U.S. 251 (1918).

stitutes the great revolutionary constitutional change of our time. It was foreshadowed in a series of statutes and cases beginning before the World War and continuing through the twenties and thirties when Congress sought to employ its taxing and commerce powers to regulate matters that had theretofore been regulated by the police powers of the states; and the Court upheld many of these regulations: a federal action regulating railroad rates even between two points within the same state;[5] a federal law prohibiting the importation of liquor into a state in violation of the state's laws;[6] a federal law to punish the transport across state lines of stolen automobiles;[7] a federal tax on sawed-off shotguns that brought in no revenue.[8] In 1934 Professor Corwin could argue that the *Hammer vs. Dagenhart* decision, in which the Court had denied to Congress the right to use its expressly delegated powers in such a way as to enter the area otherwise reserved to the states, had been "elbowed into rather narrow quarters" and could predict the early abandonment of the principle of dual federalism with which the exercise of these powers by Congress was inconsistent. His prediction was largely fulfilled in 1937 in *NLRB vs. Jones and Laughlin Steel Corp.*[9] and the Court itself acknowledged this fact in 1941 in the landmark case of *U. S. vs. Darby Lumber Co.*[10]

The Darby case is of the utmost importance. It overrules *Hammer vs. Dagenhart* and upholds the wages-and-hours provisions of the Fair Labor Standards Act of 1938. But more important, it enunciates the clear doctrine that Congress may exercise its powers in any way it likes without hindrance from the fact that there are also states in this country which possess certain powers. Congress may regulate commerce and if in doing it also happens to regulate labor, agriculture, or anything else, so be it. The existence of the states no longer constitutes a determinant or limitation on the constitutionally delegated powers of the Congress. The tenth amendment is no longer a restriction on Article One, section eight; it merely states, said the Court "a truism that all is retained which has not been surrendered." Dual federalism was dead. But its death was a hard one and the consequences of its passing have not yet been completely realized. Henceforward the measure of the ability of Congress to regulate a matter is not to be found in the reserved powers of the states but in the grants of power to Congress, subject of course to any specific prohibitions in the constitution.

An immediate consequence of this development is to bring back into prominence two principles of the constitution that had partially faded

[5]Shreveport Rate Case, 234 U.S. 342 (1914).
[6]United States vs. Hill, 248 U.S. 420 (1919).
[7]Brooks vs. United States, 267 U.S. 432 (1925).
[8]Sonzinsky vs. United States, 300 U.S. 506 (1937).
[9]301 U.S. 1 (1937).
[10]312 U.S. 100 (1941).

from view during the period of dual federalism. One is the ancient doctrine of implied powers which by the Darby case receives a new birth of significance, for, since the only limitation on Congressional powers is that derived from the powers themselves, the implications of these powers become the measure of congressional competence. The other principle is that extremely important one in article six concerning the supremacy of national law. So obvious a thing and yet so little regarded. It merely says that an act of Congress prevails over state laws and constitutions in case of conflict, providing only that the act of Congress is valid. But the limits of validity of such acts have been much extended by the abandonment of dual federalism; the Congress may now use its powers in any way it likes, regardless of interference with state functions, and the national supremacy clause assures superiority to its acts.

Dual federalism first appeared in the period shortly after the Civil War. It grew strong throughout the rest of the century as precedents were added and it reached its apogee in 1918 in *Hammer vs. Dagenhart*. Then it began slowly to decline. And while it was declining another development took place, equally important for this analysis. Bit by bit the powers of the United States were expanded and Congress undertook a more and more extensive regulation of the economic life of the nation. As the country increased in size and population, as its economy grew more and more complex, as it became an industrialized rather than an agricultural nation, more and more of its problems had to be solved on a national scale. The crises of war and depression required greater activity from the national government and new functions, once undertaken, were seldom abandoned. Transportation, communication, agriculture, conservation, manufacturing, labor relations—all these things and more were gradually brought under the control, more or less complete, of the national legislature. The process was gradual and halting since the obstacles of dual federalism had to be overcome from time to time; but the expansion went on. I am not concerned here to recount the details of this development or to describe the means by which it has taken place. The textbooks are in substantial agreement on the matter. But I am concerned to call attention to it as a separate development. It is not merely a question of the abandonment of dual federalism but of a gradual increase in the use by Congress of powers that it possessed and a broadening of the judicial interpretation of the content of those powers. This process began long before dual federalism appeared, let alone before it disappeared, but the disappearance of that ill-conceived principle did give a tremendous boost to this development and opened the way for further increases in the scope of federal power, many of which no doubt have not yet made their appearance.

Of the powers of Congress listed in the eighth section of the first article by far the most important, so far as the great significant matters

of our national society and economy are concerned, are the commerce power and the taxing power. The Darby case much strengthens both of these by removing from their exercise the limitations of dual federalism. Let us look at each of them briefly.

The power to regulate interstate commerce has long been undergoing a process of expansion. "Regulate" has come to mean foster, encourage, prohibit, and protect as well as merely "regulate." "Commerce" from the day of Marshall has never been confined to the buying and selling of goods and now includes all manner of things: pipelines, radio and telegraph, insurance, criminal law, and so on. The last barrier to be overcome was the distinction between interstate and intrastate commerce, the former only being subject to federal regulation. But that line is difficult to draw and in recent years the Court has been willing to permit Congress to regulate any matters which affect interstate commerce in almost any way at all. Two cases in 1942 amply indicate the distance we have gone. In *U. S. vs. Wrightwood Dairy Company*[11] a company located within a single state, which bought all its materials and sold all its products within the state, was held to be subject to federal regulation on the ground that it competed with other companies that were operating in interstate commerce. In *Wickard vs. Filburn*[12] the court upheld the punishment of a farmer for exceeding his wheat quota even though the excess had been consumed entirely on the premises; the argument was that if he had not consumed his home-grown wheat he would have had to purchase it elsewhere from someone either in interstate commerce or in competition with interstate commerce. What is here suggested is that the limiting line between interstate and intrastate commerce has become very shadowy indeed and probably does not exist as a limitation on the national government. There is virtually no commerce that cannot be regulated by Congress if Congress decides to regulate it.

The development of the taxing power has been equally impressive. It now seems settled doctrine that Congress can tax and spend for the general welfare and is therefore able to accomplish by these means purposes which might be forbidden to it as a matter of ordinary legislation. In this area too the doctrine of dual federalism served as a restraint. Congressional efforts to tax child labor out of existence failed when the Court held the tax to be an invasion of the reserved power of the states to regulate labor conditions.[13] Similarly the first A.A.A. was invalidated on the ground that the tax imposed, though admittedly otherwise valid, had the effect of regulating agriculture, a function reserved to the states by the tenth amendment.[14] Such restraints no longer apply

[11] 315 U.S. 110 (1942).
[12] 317 U.S. 111 (1942).
[13] Bailey vs. Drexel Furniture Co., 259 U.S. 20 (1922).
[14] U.S. vs. Butler, 297 U.S. 1 (1936).

to the taxing power and, indeed, there would seem to be very few restraints that do apply, at least from a constitutional point of view. Direct taxes must be apportioned; others must be uniform; export taxes are prohibited; and due process must be observed. But these seem not to offer any very serious limitation to the Congress. There is no limitation on the *things* that Congress may tax and it is most unlikely that we have seen the end of Congressional ingenuity in this matter. It is quite possible for Congress to use its taxing power in such a way as to drive the states completely out of a given tax area, simply by imposing a sufficiently high tax of its own. We have the precedents not only of the unemployment compensation taxes in this country but also the significant system of uniform taxation in Australia. There the central government in order to equalize the tax burden among the states and to secure adequate revenues simply imposed an income tax that was high enough to prevent the states from collecting any for themselves. The Parliament gave its own tax priority in collection and offered to rebate considerable portions of the amounts collected to any states that would repeal their own income taxes. Naturally all of them did so at once, though not without considerable grumbling. I doubt there is anything in the United States constitution that would prevent Congress from doing exactly the same thing here; and the field is by no means limited to the income tax.

I stress these two developments—commerce and taxation—because they are most important. But they are not the only ones. Federal power has grown in many areas and in many directions. The war powers, the control of the mails, the borrowing and monetary powers—all these have grown as well. And this growth has not by any means been restricted to the legislative side of government. It may well be that history will judge the expansion of the national executive power to be even more significant. Certainly as national government functions have increased, the influence of the executive has increased with them; and the constitutional limitations on the executive are much less clearly defined than are those on the legislative branch. In foreign affairs, in the field of national defense, in matters relating to that shadowy realm of "inherent powers"—the executive has immense and still-growing authority. When this is added to the expanded scope of Congressional powers the total prospect is imposing indeed.

Let me now summarize the argument to this point. The powers of the national government, augmented from the beginning by the doctrine of implied powers, have undergone a continuous expansion and today have reached a point where it is almost impossible to define their limits. The greatest limitation derived from the nature of the federal system was overcome when the doctrine of dual federalism was abandoned; and the functions of Congress have been ever more expanded since that abandonment. The test of the validity of Congressional action has now been

shifted from the tenth amendment to the powers listed in Article One. And in case of conflict with state action, the national policy prevails by virtue of the national supremacy clause.

I should now like to offer for examination an hypothesis concerning these new relations between the states and the nation in our federal system. But to do this I must go back a way. Our system of federalism is only one among several in the modern world and each of these is organized on a somewhat different basis. The key element of any federal constitution is the method by which functions are distributed between the general and the local governments. It is unnecessary here to argue the definition of federalism but it is necessary to take account of the fact that different systems, federal or confederate or even unitary in a strict sense, distribute functions in different ways. In the United States we have assigned a certain list of powers or functions to the general government and reserved everything else to the states. Other countries have followed different plans. In Canada the enumerated powers are assigned to the provinces and the residuary powers left with the central government; in India an attempt is made to list the powers of both. In South Africa the provinces are assigned a certain number of functions but the national government exercises a general power over the whole field of government including those areas assigned to the provinces, and in case of conflict the national law prevails. In New Zealand during the period 1852-1876 the provinces were empowered to pass laws on all subjects not specifically prohibited by the constitution while the Parliament, as in South Africa today, could legislate on all matters and its acts prevailed in any conflicts. In the United States, however, we have carefully separated the two areas; each government has its own sphere of action and for a long time we said that each within its own area was sovereign. What has happened here, however, is that the powers of the general government have been much enlarged in comparison with those of the states, in part, though by no means entirely, at the expense of the states. Indeed these powers have been so much enlarged that it is very difficult to find areas in which they do not operate. Moreover the exercise of these powers is no longer restricted by the possibility that they may enter the area reserved to the states. And finally if there is a conflict the act of the national government prevails over the acts or even the constitutions of the states. Here then is the question and the hypothesis: can we not say that the nature of the distribution of powers, and with it the essential quality of federalism, in this country has undergone a profound change, not only of degree but of kind? I suggest that this distribution is now very similar to that of South Africa described above. That the limits on the powers of the national government that derive from the nature of the federal system have now disappeared. That the states may still perform certain functions, so long as they do not interfere with the exercise of

power by the United States, but that the United States may do whatever it wishes and is not restrained by the federal system. The inner nature of this federal distribution of powers is different. This is the hypothesis that I desire to explore.

One point I should like to clear up at the outset. I am not suggesting that the national government is unrestrained, but only that it is unrestrained by the federal system. Many other prohibitions still exist; the Bill of Rights is such a prohibition and it would seem to be increasing rather than decreasing in vigor. The original constitution also contains several limitations on Congress such as those prohibiting *ex post facto* laws and bills of attainder, requiring the apportionment of direct taxes, and so on. These continue unimpaired. But the national government no longer suffers from any restraints deriving from the federal system as such.

Now this is an hypothesis. How far can such an assertion be justified?

For the most part in discussions of the problem of power relations between the states and the nation we content ourselves with describing the expansion of the national government and calling attention to the new functions that government performs. Let us here approach it from the other direction and inquire what functions it could *not* perform. This I suggest will shed more light on the hypothesis for it will provide a more accurate measurement of how far the development has gone. Let us ask therefore what, if any, limitations are placed on the powers of Congress by the federal system.

The obvious place to start is the commerce clause. The only question of federalism at this point is that of the inability of Congress to control intrastate commerce. Clearly if there is such commerce the state, not the Congress, controls it. But the line of decisions pointed to already suggests rather clearly that there is no longer any commerce so exclusively intrastate as to be beyond the control of Congress. This is not of course to say that the states may no longer control any commerce, but they continue to do so only by Congressional sufferance. This is in accordance with the so-called "Cooley rule" laid down by the Supreme Court in 1851[15] as a principle for determining whether state action in a field confided to Congress is valid in the absence of Congressional action. Simply stated the rule is that if Congress has not acted the state may act in the area of Congressional competence provided there is no need for action in the several states to be uniform. This rule is still accepted and employed by the Court and each session brings a few new decisions upholding state action under it. Nevertheless this Cooley rule is by no means a limitation of Congressional power. It is merely an acknowledgment by the Court that states may act in some instances when Congress does not exercise its power. I think it is probably impossible to find

[15]Cooley vs. Board of Wardens of the Port of Philadelphia, 12 How. 299 (1851).

any commerce that would not be subject to national regulation. And I suspect that without very much straining the Court could find many other things subject to federal control under the commerce clause that have not heretofore been regulated by the national government.

But Congress can of course act only on those matters confided to it by the constitution; it can exercise only the powers of Article I, section 8, or powers reasonably implied by those heads of power. All else is presumably left yet to the states. In pursuit of our inquiry, therefore, we may raise questions concerning functions traditionally performed by the states and inquire whether Congress could regulate them under the powers it possesses. Could it regulate, for example, the conservation of natural resources? I should say that the war powers are sufficient to take care of most of these resources and the commerce power the rest; and that they will be increasingly used for this purpose with little challenge. What of education? This is a subject governed by state and local authority in the United States by virtue of a firm and deep-seated prejudice in favor of local control. But Congress may tax for the general welfare and may spend its funds for the same purpose. It already offers considerable "assistance" to the states in this field and may at any time offer further conditional grants that will be very difficult to refuse. Already a considerable movement is under way directed toward a much increased federal program in education; and there seems little reason to suppose that such a program would be held invalid.

Could Congress enact a uniform highway code? Many argue the need of such a standardization. Can we doubt that such a code could be promulgated by the Congress and upheld by the Courts? Certainly it could be made to apply to roads maintained in part by federal funds; but there seems to be little reason why it should stop at that point. The highway network of this country is as much an avenue of interstate commerce as are the navigable streams, and a good bit more so than the unnavigable ones.

Could Congress enact a uniform divorce law for the entire nation? Certainly this would be out of harmony with a strong tradition. But the tradition—or is it the law?—that requires state control of this matter produces something less than harmony. I confess to some doubt on this question, but I should consider it at least debatable. The grounds for such action might again be the commerce clause, which has long been used as a national police power and which can scarcely ignore so magnificent a commercial edifice as that constructed in the vicinity of Reno and Las Vegas. An interpretation of the commerce power that is broad enough to invalidate the California laws against the immigration of "Okies" is probably broad enough to encompass the interstate traffic in divorce. I suspect that poor Mr. Williams of North Carolina, who languished in jail for bigamy, might as easily be conceived to have been

in interstate commerce when he traveled to Nevada as was poor Mr. Edwards who traveled to California for quite another sort of relief.

There are some fields, however, that would be difficult for the federal government to enter because of restraints deriving from the federal system. For example, there are no doubt many things in the private law field that would presently be beyond the powers of the Congress, though I suspect that less of this area would be exempt than one would at first imagine. The law of contract, which is presently a matter for states to govern, could in large part be supplanted by a Congress determined to extend its control to every field of commercial intercourse. The law of tort might also be affected by national legislation, though doubtless most of it is a matter of state police power regulation and would be beyond the reach of Congress. I think it likely that there is an area here that challenges the hypothesis of Congressional omnipotence and to the extent that these matters of private law are beyond federal control, the hypothesis is invalid.

We ought to refer here also to what seems to be a limitation on the federal taxing power. I have suggested already that, although there are constitutional restrictions on the manner in which federal taxes may be levied, there are none on the things that may be taxed. There is an important exception to this principle, however, that does affect our analysis. This is the immunity of the governmental activities of states from such federal taxation. This subject is still somewhat confused and the effort to distinguish between a state's taxable proprietary functions and its non-taxable governmental functions has not been entirely successful. The immunity of federal instrumentalities from state taxes seems clearly settled in terms of the national supremacy clause, but the question of the immunity of state functions from federal taxation is still unsettled. It seems clear, however, that there are such things yet as state governmental functions and that the diminution of reciprocal immunities has not yet affected these. Here clearly is a limitation of the federal government that derives from the federal system.

Finally the existence of the states is guaranteed. We have not yet acquired a unitary constitution and the Congress is not a sovereign parliament with respect to the states. A national law abolishing a state or even depriving it of territory without its consent would be clearly beyond the constitutional powers of the national legislature.

Now what does all this suggest with regard to our hypothesis? It is admittedly too much to say that the federal system no longer imposes any restraints at all on the national government or that the Congress may now legislate on any subject at all. But it seems to me that what is significant here is not that there are a few such restraints still remaining, but that they are so few and that we have to search so diligently to find them. Congress cannot abolish a state nor deprive it of territory; it

doubtless could not supplant all the private law of the states; much legal argument would follow any effort to enact national laws on divorce, civil rights, education and the like. But it is difficult to imagine that justification could not be found in the present law for most of such legislation. Certainly the national powers to tax and spend and to regulate commerce are now so broad that the federal system could be reduced to nullity by a Congress determined to accomplish such a result. And I conceive this to be not an attempt to predict future trends of court decisions, but an estimate of the present condition of the constitutional law of federalism. I am unwilling to assert that a government cannot provide for or regulate such things as divorce, conservation, education, and health services which has already constitutionally undertaken such activities as rural electrification, the guarantee of mortgages, the regulation of securities issues, and the provision of school lunches, poor relief, and maternity benefits.

What conclusion can we draw from this and what prognosis can we make concerning the future of federalism in the United States? It appears that this hypothesis, while too strongly stated and not completely accurate, is not far short of the truth; that the distribution of powers has been significantly altered and with it the essential nature of the federal system. But I do not think this means the end of American federalism. To alter a thing is not to wipe it out. Federalism will continue in this country but it will rest on a rather different basis. We must consult here the important difference between form and practice; between law and convention; between constitution and policy. For what brought federalism into being in this country and what has made it what it is today is the composition, views and demands of the people of this country. Federalism is far more than a way in which a constitution is written. What is much more important is the way in which that constitution and the institutional arrangements that implement it are used by the people they are designed to serve. Professor Wheare draws a nice distinction between a federal constitution and a federal government and argues that a people may have either one of these without the other.[16] Legal analysis by itself is insufficient; one must also give attention to politics. Federalism is adopted and kept by a people because of certain fundamental diversities within the society which the institutions of federalism are intended to protect and articulate. To show that an alteration—even one of profound importance—has taken place in the nature of the distribution of powers is not tantamount to showing that the diversities that made federalism desirable or necessary have disappeared. And I think it clear that they have not disappeared in this country. To argue that Congress *can* do a great many things that it could not have done a

[16]K. C. Wheare, *Federal Government*, 2d ed., Oxford, 1951, ch. 2.

few years ago is not to argue that Congress *will* do all those things. And the reason it will not do them is that the federal principle is still far too strong in this country, even granting the unlikely possibility that Congress might desire to do them. We are still not a homogeneous people and despite the increasing nationalization of our economy, we are not likely to become so very soon. States are still states and, though their boundaries frequently do not coincide with those of economic and social interests, they still serve as centers of significant activities, interests and loyalties and their continued vigor still represents to the American people the maintenance of a long-cherished principle of decentralized political authority.

I have argued that Congress is now virtually unrestrained by any constitutional limitations of the federal system. But this only means that the restraints upon Congress are now of a different sort. We may entertain ourselves with a sort of constitutional "parade of the horribles" by showing what Congress *could* do under the legal restraints now remaining. But Congress is not doing, nor is it likely to do, most of these things. And I should argue that the fact that its inaction rests on a policy basis rather than a constitutional or legal basis does not weaken the argument that its inaction is a measure of the continued decentralization of the policy-making process.

So long as policy is made at the local level, so long as the people in the local community, whether this be state or county or city, continue to settle for themselves important matters of local concern, then to that extent we will continue to enjoy in this country the essential advantages of federalism. I doubt that it is necessary to argue here that the states have not fallen into disuse as the national government has expanded. Most discussions of this problem call attention to the increase in recent years of state activities as well. State functions and state budgets are greater now than they ever have been and, although it is fair to say that much national expansion has been at state expense, still we find the states also increasing the scope of their activities. The explanation is of course that both states and national government have begun in recent years to perform functions that heretofore were simply not performed by government. Since the abandonment by the Supreme Court of its self-imposed burden of deciding political issues through the device of dual federalism (an abdication that Corwin described as resulting in a kind of judicial Götterdammerung) a more and more tolerant attitude has been taken toward the constitutionality of state action. The states have been freed from many of the earlier restraints on the regulation of economic and social questions that the fourteenth amendment had been considered to impose upon them. And equally important, the attitude of the Court toward the use by the states of their police powers in such a way as to affect the flow of interstate commerce has become more liberal. Each

year sees a new case or two in which such state regulation is upheld under the Cooley rule.[17] As was pointed out above, the Cooley rule is a permissive interpretation; it confers nothing upon the states but only permits them to act when Congress is silent and when there is no obvious need for uniform action. Its continued use, however, suggests how much this making of policy is still decentralized. The fact that the Court maintains it is evidence that it is not seeking to nationalize, but to liberalize, policy making; the fact that it still has opportunity to use it is evidence that Congress shares this attitude.

We must observe also that the health of federalism, if it now depends on the policy of the national government, must be measured not only by the increase in state activity (although this is valid evidence), but also by the willingness of the national government to sanction local determination of policies over which it might exert control. The Cooley rule is an example of this; and there are others. One of great importance is that happy coordination of state and federal activity that has come to be known as "cooperative federalism." I need not dwell on this point. I refer to the joint use by state and national governments of personnel, to the joint administration of supplementary laws by agencies of both levels of government, to the assistance offered the states by the national government in such matters as personnel training, research services, and police assistance, to the extension of credits against federal taxes for taxes paid to the states, and to a wide range of informal cooperation between officers of the two governments. This I suggest is a healthy development and one that offers no very great threat to the security of the states.

Another aspect of this same development is the increasing use of the grant-in-aid as a device for equalizing the burdens of our several governments. Every federal system has met the very serious problem of a disequilibrium between the allotment of fiscal resources and the distribution of functions and this has usually taken the form with which we in the United States are familiar; that is to say the national government has more money than it has functions and the states have more functions than they have money to perform. The United States, like most others, has sought to remedy this situation by a system of grants to the states. It would be quite as logical to transfer functions from the states to the federal government, but this is difficult for political reasons. Note that I say political reasons; constitutionally the federal government could now doubtless undertake enough new functions to relieve the states of the burdens they cannot afford to bear. But this has not been done and there is little prospect that it will be done. It may be objected that the point is obvious in that the states wouldn't stand for it or that the people of this country don't want it done. If so, I readily concur, for

[17]E.g., California vs. Zook, 336 U.S. 725 (1949); Cities Service Gas Co. vs. Peerless Oil and Gas Co., 340 U.S. 179 (1950).

the point I wish to make is that what makes the federal system what it is today is not the rigid confines of constitutional law, but the varying attitudes and demands that are evoked by the diversities within the American society. It has been argued that the grant-in-aid system has served as a vehicle for the growth of national power through the attachment of conditions to the grants. No doubt this is true; but we must recognize also that it has been a device by which the national government, through the grant of funds, has made it possible for the states to carry on activities that might otherwise have been transferred completely to the United States.

Another evidence of this same willingness on the part of the national government is the habit of decentralizing a large part of its administrative operation. To the extent that administrative decisions actually are devolved upon the local area, we have a kind of quasi-federalism. This subject is a highly complex one and is beyond my ability to deal with adequately here. I may content myself with remarking that this is a difficult thing to maintain, even with the best of intention. It is not enough merely to move an office out of Washington or to set up regional offices, if the decisions are still made at the top level. Real decisions must be made by the local officers of the national body and the opinions of local people must enter into these decisions. How far the practice is actually carried out is very difficult to measure; but to the extent that it is carried out the principle of decentralized policy making is maintained and a working federalism is in action regardless of the supremacy of the national government in terms of the nation's constitutional law.

Another intimation that the federal nature of American government has not been abandoned may be found in the party system. The extreme decentralization of our parties is in part derived from the federal system and has in turn helped to determine the nature of that federal system. To the extent that national policy is determined on party lines, we may expect it to be determined in terms of diversity of opinion among the several states and regions. Surely the presidential nominating conventions of 1952 offer weighty evidence of continued federal qualities in the organization of both our parties.

Finally, there is a consideration of very great importance and that is that people still think in terms of states and "states' rights." One finds a great many explanations of the states' rights opposition to federal government action which show that this is really only opposition to governmental regulation by those who prefer to remain unregulated. And the general habit seems to be to consider that this explanation disposes of states' rights as a myth and a stalking horse. But what this ignores is that—even granting the validity of this explanation, which I do—those who oppose such action deem it profitable to cloak their opposition be-

hind the mask of a states' rights argument. Isn't it worth asking why? And must not the answer be found somewhere in the proposition that the people of this country believe and desire it to be federal and do not like the prospect of one level of government performing functions they believe should be performed, if at all, by the other level? Institutions have a habit of going their own way once they are established. What determines their path and their manner of operation is the way men treat them and what they expect of them and use them for. Institutions are not self-perpetuating; they depend for their vitality upon the men who use them; and the way men use them is determined far more by their conceptions and attitudes than by what they may read in learned journals about constitutional history.

All these things I suggest are evidence that the federal principle is still operative and that it will continue to determine many of our political actions. All the same, it is probably inevitable that the functions of the United States will increase still further. Unused power is a great temptation. And there are many problems of federalism itself that seemingly can be solved only by federal action of some kind. Interstate trade barriers, tax and wealth differentials, variations in state laws on incorporation, divorce, health standards, education—any of these may evoke federal action. And it seems certain that most such action will be perfectly constitutional. But if the past is any criterion of the future, most of it will be taken only when the states have shown that they cannot manage the problem concerned. The states therefore, by improving their own systems and facing up more squarely to their responsibilities, have the opportunity of preserving the important role that has been traditionally theirs. But one may be permitted to doubt that such improvement will be forthcoming. For certainly one reason for the transfer of so many functions to the national government has been the inability or unwillingness of state governments to organize themselves for their proper performance at the local level. Finally, one might observe in this connection that if the national government has been guilty of taking powers away from the states, the states have been equally guilty in their relations with the local governments within their borders. The abridgement of and interference with local home rule by state governments is notorious and it borders on the absurd for state officials to object to the expansion of the national government on the ground that it violates the honored principle of the decentralization of policy making.

But our purpose here is neither to predict the future nor to sound the alarm. It is merely to point to the altered foundation on which our federal system rests. Certainly there have been important changes in the past decade or two. But is it not possible that this in itself has been a change "back to the constitution". The principle of national supremacy has been there from the beginning; what was forgotten for so

long was that that clause makes impossible a "balance" between states and nation and that what we have done over the years is merely to widen the scope of those things that the constitution makes supreme. The idea that the states and the nation faced each other as equal sovereigns across a line marking off the division of powers was a latter-day invention. The national supremacy clause was obscured by the hypertrophy of the tenth amendment, a development induced by a Court convinced, despite Justice Holmes, that the "*Social Statics* of Mr. Herbert Spencer" was a part of the constitution. We have so long used the constitution as an instrument of partisan conflict, we have so long shouted "states' rights!" when what we meant was "hands off!" that we have very nearly forgotten this essential principle that makes any federal government possible.

Many observers have commented on the fact that we are a litigious people and that we tend to consider important questions of public policy in terms of their constitutional legality. Dicey indeed, largely on the basis of American experience, argued that federalism inevitably emphasizes legalism and casts political problems in legal form. If it is true, as I have argued, that American federalism has virtually become a matter for the policy decision of the national government, then we may even find ourselves some day departing from this ancient habit and turning to the consideration of political and economic realities for the settlement of important public issues.

It is difficult to concede that federalism in the United States is dead, even if you accept as completely true my earlier hypothesis, for federalism is produced by determinants other than those contained in constitutional documents and court decisions. Constitutions are less important than we have been taught to think. We may place a certain confidence in the vigor and adaptability of an American people that has been too long accustomed to a federal system to tolerate its easy abandonment. There is still a very considerable diversity among the various societies that compose the United States and a strong enough feeling for local particularities to sustain a federalism which is now less legal than it is political. It seems somehow appropriate for a citizen of Texas to urge this argument.

Employer's Liability Legislation in Wisconsin, 1874-1893

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The "common will" of the people was once held to be the determinant in the passage of legislation. Social scientists long since, however, have placed greater emphasis upon the role of pressure groups in the legislative process.[1] In the nineteenth century, among the most powerful interest groups operating at every level of American government were the railroads. So ubiquitous were the railroad representatives that it was assumed that their influence would be felt whenever legislation affecting their clients was brought before the legislatures. Well organized and highly skilled in the arts of influencing legislators, they could often boast that no legislation affecting railroads could pass without their permission. For the most part, the railroads used lawyers to represent themselves before the legislative committees, but on vital issues high railroad officials often injected themselves into the controversy.

From the 1870's to the beginning of the Progressive period in Wisconsin history there was an almost constant struggle between the railroads and their employees over the question of employer's liability. The issue was of tremendous importance because it struck deep into the roots of the economic thought of the nation. The key to the whole question was the distribution of the burden of costs for industrial accidents. Employers were in the more advantageous position since the common law gave them strong defenses against the claims of their employees in court action when the latter had sustained an injury in the course of employment. Protected also by a climate of opinion sympathetic to the interests of private enterprise, by a good press, and by political parties dedicated to the maintenance of the *status quo*, railroads made it difficult to obtain favorable employee legislation.

In the absense of statutory law, the common law controlled the claims of an employee against his employer for industrial accidents. Although the employee enjoyed some protections in his employment by law, these were not sufficient to overbalance the usual stronger position of the employer. Often the courts applied one of the three available defenses of the employers to the case at hand, each one capable of preventing any

[1]Learned Hand, "Is There a Common Will," *Michigan Law Review*, 28:46-52, (1929-1930); V. O. Key, Jr., *Politics, Parties, and Pressure Groups*, 2nd ed., (N. Y., 1947); D. D. McKean, *Pressures on the Legislature of New Jersey*, (N. Y., 1938); D. D. McKean, *Party and Pressure Politics*, (N. Y., 1949); Belle Zeller, *Pressure Politics in New York*, (N. Y., 1937); E. Pendleton Herring, *Group Representation before Congress*, (Baltimore, 1929); P. C. Newman, *The Labor Legislation of New Jersey*, (Washington, D. C., 1943).

recovery by the injured worker. The fellow servant, assumption of risk, and contributory negligence rules each could, if applicable to the case, cause the verdict to be rendered in favor of the employer. These doctrines, the product of a long historical evolution both in England and in the United States, received more systematic and sympathetic attention from the courts than the doctrines protecting the rights of the worker to a safe place of employment or those covering the negligence of the vice-principal.[2]

Ten years after statehood, the first case involving the liability of an employer to an injured railroad employee appeared in the Wisconsin courts. Following previous Ohio and Indiana precedents, the Wisconsin Supreme Court utilized the "vice-principal" and the "departmental" rules to return a verdict favorable to the employee.[3] This decision was quickly modified, however, in 1861 when the court adopted the more restrictive fellow servant doctrine.[4] Within little more than a decade the contributory negligence and assumption of risk rules were assimilated into Wisconsin law.[5] Thus, the worker was faced with a solidified body of common law generally unfavorable to his interests in any court action arising out of injuries caused by industrial accidents.

Railroad construction was proposed even during the territorial period in Wisconsin, but the actual building did not experience much success until 1850-1857.[6] Then the panic of 1857 and the Civil War curtailed expansion,[7] but in the post Civil War period railroad promoters projected plans until almost every hamlet and village throughout the state had hopes for railroads leading to and from their community. By the beginning of 1868 Wisconsin had slightly more than a thousand miles of track, and within six years another 1,400 miles had been added to the state's railroad network.[8]

While this expansion was taking place, consolidation and concentration of control were also occurring. By 1870 Alexander Mitchell of Mil-

[2] *Priestly* v. *Fowler*, 3 Mees & Wels., 1, (Exchequer, 1837); *Murray* v. *South Carolina Railway Co.*, 1 McM. 385, (1841); *Farwell* v. *The Boston and Worcester Railroad Corporation*, 4 Metc. 49, (1842); For summary of the doctrines of common law relating to employer's liability see Lloyd K. Garrison and Willard Hurst, *Law and Society*, 3 vols. (Madison, Wis., c., 1941) 2:3-4.

[3] *Chamberlain* v. *The Milwaukee and Mississippi Railroad Company*, 7 Wis. 367, (1858).

[4] *Mosley* v. *Chamberlain*, 18 Wis. 731, (1861).

[5] *Potter* v. *The Chicago and Northwestern Railroad Company*, 21 Wis. 377, (1867); *Strahlendorf* v. *Rosenthal*, 30 Wis. 674 (1872).

[6] R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815-1840*, 2 vols., Bloomington, Ind., 1951) 2:267; George R. Taylor, *The Transportation Revolution, 1815-1860*, Vol. IV, The Economic History of the United States Series, (N. Y., c., 1951), 79.

[7] Frederick Merk, *Economic History of Wisconsin during the Civil War Decades, Publications of the State Historical Society of Wisconsin, Studies*, Vol. 1., (Madison, Wis., 1916), 244 ff.

[8] Merk, *Economic History of Wisconsin*, 277.

waukee and his associates dominated the entire railroad system of Wisconsin. Disdainful of regulatory efforts, the railroad leaders in Wisconsin, as in other states of the nation, methodically raised the rates on freight and transportation until a wide-spread protest swept the Mid-West.[9] Riding on the crest of this movement a coalition of Grangers, Democrats, and anti-prohibitionist Germans succeeded in electing William R. Taylor, a Democrat, as governor of Wisconsin in 1873.[10] This victory, backed in part by groups of shippers using the railroad for their commodities and products, broke the Republican control of the state government in Wisconsin for the first time in over ten years. The coalition controlled the Assembly but the hold-over Senators still maintained a majority in the upper house of the legislature.[11] Nonetheless, the legislature passed the Potter Law in 1874, which fixed railroad rates and provided for a three-member railroad commission.[12]

The first report of the railroad commissioners called attention to the fact that railroads were responsible under law for injuries to passengers caused by the carelessness or negligence of their agents. This same protection, however, they stated, was not extended to the employees of the railroads. By increasing the liability of the railroad to cover accidents to employees two useful results might be attained. The first accomplishment would be that the surviving relatives of the employees killed in railroad accidents would not be thrown immediately on charities or the public dole for livelihood. The second result would be the selection of more competent railroad workers who would prevent many accidents and thus promote safer railroad travel. To this end the commissioners urged the passage of a law which would abrogate the fellow servant rule of the common law.[13]

Out of the general movement for railroad regulation and the demand for greater protection against railroad disasters came the first attempt to legislate employer's liability in Wisconsin. A bill drafted by Judge Harlow S. Orton, later a member of the Wisconsin Supreme Court, and introduced by State Senator Robert McCurdy of Winnebago County was brought before the legislature in 1874.[14] Immediately it was assailed on the floor of the legislature as a product of case hungry lawyers and as a protection for an arrogant class of workmen. Given this opening, the bill's detractors argued, all workmen would soon demand comparable

[9]Solon Buck, *The Granger Movement*, (Cambridge, Mass., 1933); Merk, *Economic History of Wisconsin*, 298-299.

[10]William F. Raney, *Wisconsin: A Story of Progress*, (N. Y., 1940), 247.

[11]Raney, *Wisconsin*, 247.

[12]Robert T. Daland, "Enactment of the Potter Law, "*Wisconsin Magazine of History*, 33:45-54 (September, 1949).

[13]"First Annual Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1874, 119.

[14]"Second Biennial Report of the Bureau of Labor and Industrial Statistics," in *Wisconsin Public Documents*, 1885-1886, xlv; *Senate Journal*, 1874, 130.

legislation. Although four states had previously enacted similar legislation, the opposition claimed that there was no precedent to sustain it.[15] The bill passed in the Senate, but was killed in the Assembly despite its majority of "anti-railroad" members.[16] Thereupon the Republican press could boast that the "Assembly killed it with a railroad lobby present, and the nephew of a railroad president standing on the floor wielding the fatal knife."[17]

Undoubtedly the coalition government, professedly anti-railroad, was embarrassed by this vote. At the next legislative session Governor William R. Taylor in his annual message appealed for a statute which would modify the fellow servant doctrine for railroad employees. Following the previous reasoning of the railroad commissioners the Governor felt confident that the desired legislation would secure the employment of " . . . more cautious and reliable men and thus would afford greater security to the traveling public."[18] For this added liability, though, Governor Taylor felt that the railroads should receive additional compensation. From the Governor's words, it would seem that a compromise had been reached between the railroads and the proponents of the railroad employer's liability bill and with a minimum of discussion the bill became law. This law of 1875 wiped out the fellow servant doctrine as applied to the railroad industry but did not affect the assumption of risk or the contributory negligence rules.[19]

The crux of the matter from the railroad's point of view was that the law shifted a share of the burden of the cost of industrial accidents from the employee to the employer. As the result of this statute the Wisconsin Supreme Court adopted the "vice-principal" rule because it was nearest in accord with the declared public policy of the state.[20] Faced with a law which effectively removed one of their common law defenses, the railroads immediately sought to have the statute declared unconstitutional on the grounds that it was "class" and "non-uniform" legislation. Undaunted by a decision of the Wisconsin Supreme Court upholding the statute, the railroads declared their intention to appeal the decision to the United States Supreme Court.[21]

Blocked by the Wisconsin Supreme Court in their effort to have the

[15]Madison *Wisconsin State Journal*, March 4, 1874; Madison *Daily Democrat*, March 5, 1874; Walter F. Dodd, *Administration of Workmen's Compensation*, (N. Y., 1936), 13.

[16]*Senate Journal*, 1874, 258-259; *Assembly Journal*, 1874, 514-523, 576-577.

[17]Madison *Wisconsin State Journal*, March 5, 1874.

[18]"Annual Message of Governor William R. Taylor delivered to the Legislature in Joint Committee, January 4, 1875," in *Wisconsin Public Documents*, 1874, 13.

[19]Madison *Wisconsin State Journal*, January 22, March 2, 1875; *Assembly Journal*, 1875, 607; *Senate Journal*, 1875, 462; *Laws of Wisconsin*, 1875, Chapter 173.

[20]*Brabbits* v. *The Chicago and Northwestern Railway Company*, 38 Wis. 289, (1875).

[21]*Ditberner* v. *The Chicago, Milwaukee and St. Paul Railway Co.*, 47 Wis. 138, (1879).

statute declared unconstitutional, the railroad shifted their campaign to the floor of the Wisconsin Legislature in 1880.[22] Perhaps the railroads suspected that the United States Supreme Court would declare the law constitutional too, so logically their only resort was the legislature. Without much doubt, the railroads prepared their legislative program with considerable care, and leading their cause was Assemblyman Charles L. Colby, President of the Wisconsin Central Railroad.[23] By this time the Granger furor had largely subsided and the Republican party had a solid majority in both houses of the legislature. By all evidences and accounts Colby was credited with the repeal of the law.[24] At least he made the principal attack on the law from the floor of the Assembly. Assuring his listeners that he was a "disinterested legislator," the railroad president indicted the law on a number of counts. Reduced to their simplest form he charged that: first, the law cost the railroad companies enormous sums in employer liability suits; second, the law was a special discrimination against railroads inflicting on them liabilities to which other employers were not subjected; and third, the law encouraged the employees to relax their caution needed to protect the public and themselves from the negligence of their fellow employees.[25] This argument had failed to move the Wisconsin Supreme Court, but it caught the sympathy of the legislature which repealed the statute of 1875. Colby remained attentive to the end, blocking reconsideration of the bill and, finally, his mission completed, he moved for adjournment.[26]

With the repeal of the railroad employer's liability law, the status of the law returned to its pre-1875 position, but neither the railroad workers nor their employers could afford to relax their efforts. Every legislative session between 1800 and 1889 saw the introduction of bills to re-enact the law of 1875, but the railroad corporations during this period used a variety of arguments and means to prevent the measures from becoming law again. In plain terms, money was involved, and the railroads correctly felt that, protected by the three common law defenses, their liabilities to employees were reduced to a minimum. For a time the railroads pleaded and convinced some of the public officials, among them A. J. Turner, railroad commissioner from 1878 to 1882, that the employer's liability legislation was of doubtful constitutionality.[27]

Railroad attorneys appeared before the railroad committees of the legislature whenever a bill to re-enact the law of 1875 appeared. In 1881

[22] *Assembly Journal*, 1880, 191ff; *Senate Journal*, 1880, 511ff.
[23] *The Bluebook of the State of Wisconsin*, (Madison, Wis., 1880), 532.
[24] Raney, *Wisconsin*, 269; Portage *Wisconsin State Register*, December 8, 1888.
[25] Milwaukee *Sentinel*, March 11, 1880; Madison *Wisconsin State Journel*, March 10, 1880.
[26] *Laws of Wisconsin*, 1880, Chapter 232; *Assembly Journal*, 1880, 568.
[27] "Seventh Annual Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1880, xxii-xxxiii.

John C. Spooner, attorney for the Chicago, Milwaukee, St. Paul and Omaha and later the United States Senator from Wisconsin, played no small role in the defeat of the liability bill.[28] Similar measures met their death by committee action in 1882 and 1883.[29]

During the late 1880's the railroad brotherhoods began to marshal their forces more carefully and employed counsels to represent their interest before the appropriate legislative committee. Railroaders long maintained that their occupation held unusual dangers created by faulty equipment, defective track and roadbed, but they singled out as most perilous the manual coupler and mechanical braking devices of the trains.[30] During this period the brotherhoods began to establish legislative committees to appear at the state capitals to contest the influence of the hitherto unopposed railroad officials and lobbyists.[31] They claimed, in particular, that legislation requiring the railroads to adopt some type of a standard automatic coupler and automatic brakes would reduce the accidents to train crews by ninety percent.[32]

Railroads often recruited their watchmen, signalmen, messengers, and gatemen from amongst their employees who had lost an arm or leg in the line of their employment. A few of the railroads maintained a central hospital to care for their employees hurt in train wrecks or accidents, but admittedly their number was small. Little, however, was done for the families of those unfortunate workers who were ground beneath the wheels of a train and whose bodies were "expressed home."[33] Only employer's liability legislation would remedy the faults of the common law, which was severely attacked during the later 1880's and early 1890's.[34]

[28]Milwaukee *Sentinel*, March 24, 1881.

[29]Milwaukee *Sentinel*, March 24, 1882; *Assembly Journal*, 1882, 49, 562; *Assembly Journal*, 1883, 174, 502.

[30a]"Only the Engineer and Fireman Killed," "*Railway Conductor's Monthly*, 1:175-176, (April, 1884); "Accidents to Railroad Men," *Railway Conductor's Monthly*, 5:606, December, 1883); "Is State Legislation Necessary," *Railway Conductor's Monthly*, 6:456-457, (August, 1889); "The Brakeman's Chances," *Railway Conductor's Monthly*, 7:487-489, (July, 1890); "A Broken Rail," *Brotherhood of Locomotive Engineer's Monthly Journal*, 2:67, (March, 1868); "Automatic Car Couplers—A Word for the Brakeman," *Brotherhood of Locomotive Engineer's Monthly Journal*, 6:313-314, (June, 1874); "Automatic Couplers," *Locomotive Firemen's Magazine*, 16:246. (March, 1892).

[31]See monthly articles under title of "Legislative" in *Brotherhood of Locomotive Engineer's Monthly Journal*, or the *Locomotive Firemen's Magazine* after 1888.

[32]Demand came largely after 1885 in the brotherhood's journals.

[33a]"How Crippled Employees are Cared For," *Railway Conductor's Monthly*, 2:306-307, (June, 1885); Carroll D. Wright, "*Fifth Annual Report of the Commissioner of Labor of the United States*, (Washington, D. C., 1890), 22, 25.

[34a]"Railroad Law," *Locomotive Firemen's Magazine*, 12:86, (February, 1888); "Railroad Law," *Locomotive Firemen's Magazine*, 13:389, (May, 1889); "What Legislation Is Needed? How Shall It Be Obtained?" *Locomotive Firemen's Magazine*, 16:195-198, (March, 1892); "Employees and Legislation," *Railway Conductor's Monthly*, 8:246-247,

Employer's liability legislation and compulsory laws requiring the installation of automatic couplers and brakes were suggested in the Wisconsin Legislature of 1885. Although the bills attracted considerable attention they were still defeated by the influence and persuasion of the railroad attorneys.[85] In addition, an attempt was made to pass a bill which would give legislative approval to the "vice-principal" rule for all occupations in Wisconsin.[86] The conservative arguments stressed by Hugh Ryan, a Milwaukee Democrat and son of the former Edward G Ryan, Chief Justice of the Wisconsin Supreme Court, prevailed. His objections sounded much like those used by Charles Colby five years earlier. Such legislation would, in his opinion, only condone careless conduct; thus neither the passengers nor the fellow workmen would be afforded the necessary protection. He argued also that railroads treated their injured employees as humanely as possible, often paying the doctor bill, providing nurses, and if the workers were not too badly maimed they were given work after their recovery.[87]

From 1887 the movement for employer's liability legislation continued with even greater intensity and received the support of the State Railroad Commissioner and the Commissioner of the Bureau of Labor Statistics. Commissioner Frank A. Flower of the latter agency approved liability legislation applying to railroads because he believed that the dangers of railroading necessitated additional protection. "The old common law rule of negligence or carelessness of co-employees," Flower wrote, "by which corporations now escape liability, was made long before the days of railroads, steamships, and complicated and dangerous machinery, and cannot apply to the present."[88] He predicted that the issue would come before the legislature in 1887 and asked that the interests of the 25,000 railroad employees in the state be considered although they would have no lobby present.

To prevent enactment of the liability legislation in 1887 the railroad sympathizers used an assortment of parliamentary tricks. When the first employer's liability bill was introduced into the Assembly, the railroads put forth a similar measure except that its provision would extend the liability to every employer and corporation in Wisconsin.[89] They felt that such an extreme measure would certainly have no chance of actually becoming law. The railroad sponsored bill passed the Assembly

(April, 1891); "Liability and Responsibility," *Railway Conductor's Monthly*, 8:93-94, (March, 1891).

[85]Milwaukee *Sentinel*, March 5, 1885; *Assembly Journal*, 1885, 580, 673.

[86]Milwaukee *Sentinel*, March 19, 1885.

[87]Milwaukee *Sentinel*, March 19, 1885.

[88]"Report of the Wisconsin Bureau of Labor Statistics, 1885-1886," in *Wisconsin Public Documents*, 1885-1886, xlv.

[89]*Assembly Journal*, 1887, 300; Madison *Wisconsin State Journal*, April 7, 1887; Milwaukee *Sentinel*, April 8, 1887.

while the original measure was indefinitely postponed.[40] Their reasoning held good, however, for the Senate killed the measure, many no doubt voting against the bill who would have voted for it if it had been applicable only to the railroads.[41]

Between the legislative sessions of 1887 and 1889 one substantial obstacle was removed from the path of favorable employee legislation when the United States Supreme Court held the liability acts of Kansas and Iowa constitutional.[42] No longer could the railroads attack the legislation as "class" or "non-uniform", thus unconstitutional. In addition, the railroad workers in Wisconsin began to collect money to send representatives before the legislative committees.[43]

The same groups as before favored the law, the railroad commissioners, railroad workers, and trade union representatives from the industrial areas. The social consequences of railroad accidents were strongly stressed by the railroad commissioners. "Many of the injuries are of slight character, but all too many are maimed wrecks, unfitted for the battle of life, and who come to be pensioners upon the communities where they reside, the railroad companies, or public charities."[44] The railroads of course wished to block the law and repeated their well practiced tactics in the Wisconsin Legislature. Planted bills in the legislative hoppers advocating legislation which would abrogate the fellow servant rule for all occupations except those of domestic and farm labor, and railroad attorneys testifying before the committees, constituted the railroads' standard defense.[45]

Before the Assembly Railroad Committee the conflicting testimonies were presented. For the first time the railroad workers were actually represented in the history of the legislative struggle. Asked to account for the continued absence of the railroad workers in the past an engineer testified, " . . . we knew that the men who came would be spotted, and we thought we would wait, and that justice would come by and by. But the thing has become too bad, and we made up our minds to come here spot or no spot."[46] Railroad counsels condemned any attempt to reinstate the old 1875 statute, but now their statements were contested by the railroad workers' representatives.[47] When the bill emerged from

[40]Milwaukee *Journal*, February 6, 1889.
[41]Milwaukee *Sentinel*, February 13, 15, 1889.
[42]Madison *Wisconsin State Journal*, March 29, 1889; Milwaukee *Sentinel*, March 21, 27, 1889.
[43]*Assembly Journal*, 1887, 871, 917, 988, 1028-1029.
[44]*Senate Journal*, 1887, 779-780; Madison *Wisconsin State Journal*, April 7, 1887.
[45]*Missouri Pacific Railway Company*, v. *Mackey*, 127 U. S. 205, (188); *Minneapolis and St. Louis Railway Company* v. *Herrick*, 127 U. S. 210, (1888).
[46]Portage *Wisconsin State Register*, January 28, December 8, 1888.
[47]"The Third Biennial Report of the Railroad Commissioner of the State of Wisconsin, embracing the period ending June 30, 1888," in *Wisconsin Public Documents*, 1887-1888, xx.
[48]Madison *Wisconsin State Journal*, February 13, 19, 1889.

the hearings, the measure was considerably narrower in scope than the previous statute covering the railroads' liability to their employees. The amended bill for example, specifically enumerated the employees to be covered under its provisions, as in contrast to the previous statute which had encompassed all railroad workers. In addition, the committee's bill limited the judgments in cases of injuries not resulting in death to four thousand dollars.[48]

On the floor of the Assembly the committee members defended their bill as an "admirable compromise" between the demands of the employers and their employees.[49] Despite the fact that the railroads had won a substantial victory in gaining committee action in narrowing the provisions of the previous legislation, railroad representatives in the Assembly assailed the committee bill, condemning all measures which abrogated the fellow servant doctrine when applied only to the railroads.[50] Amendments were introduced in the Assembly, but the only major change to the committee bill was the elimination of the monetary limitation for damages due to personal injury to the employee.[51] On final action the measure passed the Assembly by an overwhelming vote, and the bill was approved in the Senate with little debate.[52]

Early in the session of 1891, it become apparent that the railroad employees were far from satisfied with the provisions of the act of 1889. The only bill presented for consideration, however, was an exact duplicate of the old statute of 1875. After some deliberation, the Railroad Committee of the Assembly reported unfavorably on the bill. In their statement the Railroad Committee declared that " . . . no committee, attorney, or representative of any organizations or railroad employee nor any person has appeared before your committee to urge the passage of the bill . . . and your committee is satisfied that there is no demand either general or special on the part of the employees for any change in the present law."[53] Groups outside the railroad industry, though, took some interest in the legislation. At a meeting of Milwaukee manufacturers and businessmen it was agreed that one of their number be sent to Madison to stay for the duration of the session to protect their interests. Among the bills to which they objected was the "co-employe" bill of 1891.[54] Since the bill was in such an objectionable form to industry and the railroads, there was little chance for its passage, and, following the recommendation of the Railroad Committee, it was indefinitely postponed.[55]

[48]Madison *Wisconsin State Journal*, March 29, 1889.
[49]Madison *Wisconsin State Journal*, March 29, 1889.
[51]*Assembly Journal*, 1889, 884, 885.
[52]*Assembly Journal*, 1889, 885, 1042; *Senate Journal*, 1889, 813; *Laws of Wisconsin*, 1889, Chapter 438.
[53]Madison *Wisconsin State Journal*, February 3, 1891; Milwaukee *Sentinel*, April 3, 1891.
[54]Milwaukee *Journal*, February 24, 26, 1891.
[55]Madison *Wisconsin State Journal*, April 10, 1891; *Assembly Journal*, 1891, 767-769.

George W. Peck, Governor of Wisconsin, in his Legislative message in 1893 acknowledged his party's committment to some change in the liability legislation, but with traditional politician's ambiguity he stated his proposal so that his administration would not be committed to any definite measure. Peck appreciated the dangers of train crews but qualified his call for a new law by stating that it should be " . . . consistent with due regard for the rights and interests of the employer as well as the employed."[56]

Before the legislative session began in 1893 it was predicted that the "co-employe" bill would attract more attention than any other single piece of legislation.[57] As in previous years, the law of 1875 was the model of the bill urged forward by the railroad employees.[58] The railroads countered this with a proposal which would throw the responsibility for accidents to crewmen upon engineers.[59] The inevitable hearings followed. At the first of the committee sessions, a representative of the Brotherhood of Locomotive Engineers testified that in the opinion of his group the railroad measure was a gross injustice to the engineers because they acted upon the signals of other crewmen. Thus under the railroads' bill the engineer would be held responsible for the errors in judgments of others.[60]

William A. Walker the chief lobbyist of the Milwaukee, Chicago, & St. Paul Railroad then successfully requested additional time for the railroads to prepare their testimony.[61] When the railroad committee met for the second time the railroad attorneys were fully prepared to argue their case at length. To present the key arguments the railroads utilized the services of A. L. Cary, then general solicitor of the Milwaukee, Lake Shore, and Western Railway Company, but formerly a member of the historic Granger legislatures of Wisconsin in 1874 and 1875. The law of 1889 and the common law were sufficient for the protection of the railroad's employees, and more favorable legislation, he maintained, would only increase the natural carelessness and recklessness of the workers. Additional legislation would also mean a change in the policy of the railroad because . . . "if we have to spend more money in the payment of damage suits . . . we might suspend our generous policy toward our employees in maintaining hospitals and a staff of surgeons. This is class legislation. Why should you favor these men? Is it more hazardous than the work of a miner or of sawmill men or of machinists?"[62]

[56]"Message of George W. Peck, Governor of Wisconsin, delivered before the Legislature, January 12, 1893," in *Wisconsin Public Documents*, 1891-1892, 6.
[57]Milwaukee *Sentinel*, February 3, 1893.
[58]*Assembly Journal*, 1893, 774; Milwaukee *Sentinel*, February 11, 1893.
[59]Milwaukee *Sentinel*, March 1, 1893.
[60]Milwaukee *Journal*, March 1, 1893.
[61]Milwaukee *Sentinel*, March 1, 1893.
[62]Milwaukee *Sentinel*, March 10, 1893.

Against the battery of legal talent representing the railroads, the employees relied upon David S. Rose, an ex-small town mayor and then a practicing lawyer of Milwaukee, and State Senator John T. Kingston, while the administration was represented by Adjutant General Joseph B. Doe.[63] Senator Kingston said that when he tried to draft satisfactory legislation he could never arrive at any equitable division between employees to be covered or not covered under the provisions of the act, so had to constantly fall back upon the broad statute of 1875.[64] Of the group testifying for more favorable employee legislation, D. S. Rose was the most disposed to compromise with the railroads. Rose hinted that the groups he represented would be satisfied if they would be put under an act similar to that of 1875.[65] This in effect meant that only those railroad employees engaged in the operation of trains would be covered, not those employed in the shops of the railroads, nor the non-operating personnel.

Rose, subsequent to his testimony, recommended for the committee's consideration a bill which would repeal the fellow servant rule only for those railroad workers who were engaged in train service or performing duties in the railroad yards.[66] This bill met with the approval of the chairman of the Assembly Railroad Committee and the measure was also approved by a group of seventy delegates of conductors, firemen, brakemen, and engineers meeting at Milwaukee.[67]

The Democratic administration of Governor Peck was faced with the necessity of passing some legislation which would placate the demands of the railroad workers, but which would not alienate the railroad interests. In an effort to achieve such a solution, Adjutant General Doe introduced a bill into the legislature through Assemblyman Wilson of Janesville. This measure was an admixture of the law of 1889 and the demands of the railroad worker's representative.[68] The railroad employees, however, held firm to their demands for broader legislation, especially for train crews and operating personnel in the freight yards of the railroads.[69]

One more meeting of the Assembly Railroad Committee was held, at which time the representatives of the railroads, their employees, and the administration again testified. No new arguments were advanced, and finally, agreement was reached on a bill which would make the railroad corporations liable for damages for the negligence of fellow servants if the injured worker was a member of an operating train crew.

[63]Milwaukee *Wisconsin Vorwarts*, March 10, 1893.
[64]Milwaukee *Sentinel*, March 10, 1893.
[65]Milwaukee *Sentinel*, March 10, 1893.
[66]Milwaukee *Sentinel*, March 16, 1893.
[67]Milwaukee *Journal*, March 27, 28, 1893.
[68]Milwaukee *Wisconsin Vorwarts*, March 16, 1893.
[69]Milwaukee *Sentinel*, March 16, 1893.

The compromise proposal also made the railroad corporations liable for defective equipment.[70] To assure the passage of the bill, Edward C. Wall, Chairman of the Wisconsin Central Democratic Committee, threatened the reluctant Democratic members of the legislature with the disciplinary "whip" if they did not follow their administration's wishes.[71] As a result, the committee's final bill was easily passed in both the Assembly and Senate.[72]

While the agitation for the re-enactment of the railroad employer's liability act was taking place after 1880, the railroad commissioners of Wisconsin were almost constantly calling for legislation which would reduce the accidents to train crew members. The monthly journals of the brotherhoods of railroad workers continually called for like measures, and their demands were addressed to all state legislatures and to the Congress of the United States.[73] In Wisconsin from the outset the railroad commissioners' reports contained details on the railroad accidents in the state, and few could deny that railroading was not a hazardous occupation. One of the main sources of injuries and death to the railroad worker was the old link pin coupler which required the train crew to pass between the cars. Fingers, arms, legs, and even lives were claimed while the worker was endeavoring to connect the two cars manually.[74] As early as 1876 Commissioner D. C. Lamb wondered if there were not some safer way to couple cars to prevent the increasing accident and death rate from growing even larger.[75]

Following the legislative recommendations of his predecessors, Commissioner Nils P. Haugen stressed the dangers attendent in the coupling of railroad cars. It was his opinion that until "some automatic coupler is adopted, relieving the employees from the necessity of passing between moving cars, any great reduction of accidents from this source cannot be hoped for."[76] His attendance at a brake and coupler convention held at St. Louis strengthened his convictions, and in his 1883-1884 report he took an even more positive stand on the need for safety devices for trains.[77]

[70]Milwaukee *Sentinel*, March 22, 1893; Milwaukee *Journal*, March 22, 30, 1893.

[71]Milwaukee *Sentinel*, April 8, 1893.

[72]*Assembly Journal*, 1893, 845, 945; *Laws of Wisconsin*, 1893, Chapter 22.

[73]see fn 30.

[74]"First Annual Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1874.

[75]Third Annual Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1876, 17.

[76]"Ninth Annual Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1882, xxix.

[77]James Harding to Nils P. Haugen, April 7, 1883; E. B. Leigh to Nils P. Haugen, April 18, 1883, May 5, 1883, in Nils P. Haugen Papers, Wisconsin Historical Society Library, Madison, Wisconsin.

His reports should have made some impression on the legislature for he claimed that[78]

> . . . about sixty-one percent of all accidents are to employees, and more than half of these were caused by falling from cars and in coupling cars. It is to be hoped that the adoption of some automatic freight brake, several of which are now in use successfully by a number of roads in different parts of the country, will in the future reduce the alarming frequency of accidents occasioned by compelling train hands to mount cars in all kinds of weather and at all times. Eighty-five employees killed or maimed in coupling cars should impress upon their humane employers the necessity of change from the present link pin . . . The blocking of frogs so that men shall not be caught in them and run over and the accident attributed to their own want of caution, ought to be made general, and it might be well to follow the example of other states and compel it by law.

Once more the railroads opposed the passage of legislation which would be favorable to the interests of the railroad worker. The principal objection was that the installation of automatic brakes and couplers would cost too much money. An official of the Chicago and Northwestern Railroad objected that the installation of these devices would cost his corporation $25,000. "This expense," J. M. Whitman wrote, "is too great to be incurred within a space of a few years, and the change must be gradual and progressive as the finances will allow, if the best interests of the company are to be considered, for very few companies could stand such a financial strain and at the same time maintain its services and facilities for the public."[79]

Because most freight and passenger cars were linked with interstate commerce, legislation for the installation of automatic couplers and brakes fell within the jurisdiction of the federal government. Eventually agitation on the part of the railroad employees and the railroad commissioners of the various states caused even President Harrison to note the needs of the workers.[80] In 1893 a Federal Statute was enacted by Congress which required the installation of automatic couplers, train brakes, and wheel brakes on all locomotives by July, 1898,[81] but the five year conversion period was allowed because of the opposition of the railroad senators and sympathizers in the Congress.[82] The law also specified that the railroad companies adopt some standard coupling device in place of the some fifty different types of couplers then in use in the United States.

Although the Wisconsin Railroad Commissioners could not achieve their end in compelling the railroads to install automatic couplers and brakes on trains operating in the state, they did manage to gain the passage of legislation which required every frog to be equipped with

[78]"First Biennial Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1883-1884, 10-11.

[79]"Third Biennial Report of the Railroad Commissioners of the State of Wisconsin," in *Wisconsin Public Documents*, 1888, xxv.

[80]L. J. Hassenauer, "Congressional Legislation affecting Railroad Employees," *Notre Dame Law Review*, 8:428-450.

[81]*United States Statutes at Large*, 1893, Chapter 196, 27:531-532.

[82]*Congressional Record*, Volume 25, 1246-1252, 1273-1289, 1327.

blocks and guards."[52] The law, in effect, repealed the fellow servant doctrine where an accident occurred as the result of an unguarded frog. The Wisconsin Supreme Court, however, quickly modified the effect of the law when it held that the leaving of an unguarded frog on a track did not make the corporation absolutely liable for injuries arising from this negligence.[54] The court also at one point seemed on the verge of declaring that if many of the guard rails in a railroad yard were uniformly defective, a switchman should know and appreciate the danger. A plaintiff employee, however, was allowed to recover damages when he showed that only one of the guards in the yards was defective. Recognizing the statute, the court admitted that the railroad company owed its employees a vigilant inspection to discover and remedy the defects in the guards on the rails.[55]

Litigation often appeared in the Wisconsin Supreme Court involving the interpretation of the railroad liability legislation of 1889 and 1893. Since the United States Supreme Court had declared similar legislation of other states constitutional, the railroads did not try to upset the Wisconsin statutes. Many cases involving railroad accidents in which railroad workers were injured were decided upon the rules of common law wherever possible.

One of the main concerns of the railroad corporations was to see that a broad statute similar to the law of 1875 was not re-enacted. Clearly it was the legislative intent of the legislatures of 1889 and 1893 to pass narrower legislation. The organized brotherhoods fought for their own interest by agreeing to accept legislation which covered only their own occupations. Thus under the final legislation in the nineteenth century in Wisconsin railroad employer's liability was essentially limited to the operating personnel of the railroads. Realizing this intent on the part of the legislature, the Wisconsin Supreme Court could and did apply the fellow servant doctrine to all railroad occupations with the exception of the operating workmen of the railroads.[56]

To generalize upon whether the Republican or Democratic parties favored or opposed employer's liability legislation would be dangerous if we used only the votes of the years in which legislation was enacted or repealed. But the voting record runs for nearly twenty years, and by analysis of the whole period significant results can be obtained. During the period from 1874 to 1893, Republican legislators cast 79.3% compared with 20.7% for the Democrats of the total votes against the em-

[52] *Laws of Wisconsin*, 1889, Chapter 123.
[54] *Holum* v. *The Chicago, Milwaukee and St. Paul Railway Co.*, 80 Wis. 299, (1891).
[55] *Paine* v. *Eastern Railway Company of Minnesota*, 91 Wis. 340, (1895).
[56] *Hartford* v. *The Northern Pacific Railroad Company*, 91 Wis. 347, (1895); *Smith* v. *Chicago, Milwaukee and St. Paul Railway Company*, 91 Wis. 503, (1895); *Ean* v. *Chicago, Milwaukee and St. Paul Railway Co.*, 95 Wis. 69, (1897); *Hibbard v. Chicago, Milwaukee, St. Paul, Minneapolis and Omaha Railway Co.*, 96 Wis. 443, (1897).

ployer's liability legislation. In the same years the Democrats cast 61.9% and the Republicans 38.1% of the votes favorable to the interests of the railroad employees.[87] By occupation only two groups consistently gave a majority of their votes for this labor legislation, namely: the skilled trades and the editors and publishers. Other occupational groups, the farmers, businessmen, lumbermen, lawyers, and other professions consistently opposed the legislation under consideration.[88]

The movement for railroad employer's liability legislation is important for a number of reasons. Though limited in scope, the discussion on the floor of the Wisconsin Legislature and before its committees anticipated many of the arguments utilized during the Progressive Era when more comprehensive labor legislation was being sought. Labor organizations gained valuable experience in pressure politics during this legislative struggle and learned how to contest effectively the power of the business community. This particular series of laws also served as one of the entering wedges into public policy under which workers could be protected in the course of their employment. When a more favorable climate of political opinion came to exist after 1900 in Wisconsin and in the rest of the nation, the nineteenth century experience and labor legislation served as a point of departure from which more comprehensive labor laws could be enacted.

APPENDIX

Analysis of Votes on Employer's Liability Legislation, 1874-1893 In Percentages

TABLE I

	For	Against
Republican	38.1	79.3
Democrat	61.9	20.7

TABLE II

	For	Against
Farmers	35.3	64.7
Businessmen	32.8	67.2
Lawyers	29.6	70.4
Lumbermen	18.6	81.4
Skilled Trades	61.8	38.2
Editors & Publishers	69.7	30.3
Professions	27.8	72.2

[87]See Table 1. Statistics and votes from the *Assembly* and *Senate Journals* of the Wisconsin Legislatures, 1874-1893. Occupational and political data taken from the *Bluebook of the State of Wisconsin* from 1874-1893.

[88]See Table 2.

Book Reviews

Edited by H. MALCOLM MACDONALD

ROBERT A. NISBET: *The Quest for Community: A Study in the Ethics of Order and Freedom.* (New York: Oxford University Press, 1953, Pp., 303, $5.00.)

There has long existed in our social thinking a curious and disturbing paradox: moralists have continued to state the ideals of democracy in terms of individual freedom and self-determination, but psychologists and anthropologists have developed theories of personality largely in terms of social role and hence in terms of status and social position. And while we have approached a society that was more individualist, more egalitarian, and therefore presumably more liberal, the condition of its members has increasingly been described with words like "frustration", "anxiety", and "insecurity", while the goals that we have missed are more and more described as "membership" and "integration". Mr. Nisbet's book is an able and an important examination of this paradox.

In agreement with most modern theories of personality he argues that the quest for community is an ineradicable human need and that its normal mode of satisfaction has been in the small, primary, and intimate social groups, such as the family, the neighborhood, or the church. Such groups have steadily declined in importance in modern societies, or have been strangled by the centralization of power, and the tendency is therefore to displace the quest for community upon the state. The result is a culture that becomes more and more levelled down and undiversified, which manifests itself politically in the terrifying phenomenon of totalitarianism—a state that governs by managed hysteria, with an avowed ideal of popularity and equality, but which is in fact more tyrannical and oppressive than the historical forms of despotism. Traditional democratic ideals like liberty and equality, Mr. Nisbet argues, were formulated to meet a temporary and special situation—one in which it was a major need that the individual should be released from the pressures of obsolete corporate controls and oppressive stratification. In general and at present a theory of democracy depends upon preserving and strengthening, beside the state, a plurality of other associations and upon giving to these functions which will make them real centers of allegiance and authority. "The intermediate associations and the spontaneous social groups which compose society, rather than atomized political particles, become the prime units of theoretical and practical consideration. The major objective of political democracy becomes that of making harmonious and effective the varied group allegiances which exist in society, not sterilizing them in the interest of a monistic political community".

I believe that Mr. Nisbet's argument is both true and important and that his book is a valuable contribution to formulating a more effective conception of democracy and a more adequate theory of the relation

between political and other forms of social organization. At the same time the structure of his argument seems to me less convincing than it might be. After a rather short introductory section he asserts that "our problem becomes inevitably historical", and he then devotes the second and largest part of his book to the history largely of political concepts like sovereignty and Rousseau's General Will. This arrangement seems to me to have two unfortunate consequences. First, it makes the problem seem to arise from an intellectual error in the past, whereas I think Mr. Nisbet means that it arises from the actual development of society. Second, it makes the problem seem to be almost wholly political; Mr. Nisbet even says "the argument of this book is that the single most decisive influence upon Western social organization has been the rise and development of the centralized territorial State". Apart from the fact that this statement—like Engel's parallel claim for economic interpretation—sets a problem which no historian can solve, it suggests that political centralization took place independently of industrial and commercial centralization. Almost at the close of his book, and somewhat belatedly it seems, Mr. Nisbet recognizes "that the stifling effects of centralization upon society are as evident in large-scale private industry as they are in political government". What leads Mr. Nisbet to construct his argument in this form—if I have followed his thought correctly—is that like David Lilienthal he is convinced that technology and increase of size do not inevitably lead to a kind of centralization which stifles spontaneity, variety, and the sense of participation. With proper precautions the result might have been avoided, and the tendency may now be reversed by taking thought. This, one hopes, is true. But the change is not wholly or even primarily a matter of social theory. The corporate structure of French society in 1789 really was obsolete and intolerably burdensome. And if administration, in government and industry, is now to be decentralized, units will have to be found that are reasonably efficient and that will genuinely enlist allegiance and enforce discipline. To put the question concretely: if we devolve conservation on the states, shall we find a public opinion enlightened enough and powerful enough to keep grazing and lumbering within the limits of sound policy?

Cornell University George H. Sabine

JOHN R. STOCKTON, RICHARD C. HENSHAW, JR., and RICHARD W. GRAVES (Eds.): *Economics of Natural Gas In Texas.* (Austin, Texas: The University of Texas Press, 1952, Pp., 316, $5.00.)

A reader of this book will be impressed with the tremendous amount of time, labor, and thought that was obviously expended in its preparation, and with the discriminating care with which its wealth of statistical information has been collected, graphically illustrated, and interpreted.

A book of such quality could only have been prepared and published as a sponsored research project by authors motivated by the desire to do a job that needed to be done, and to do it well. In this they have succeeded. The sponsorship was supplied by the Bureau of Business Research of the College of Business Administration of The University of Texas.

The title of the book is too modest to indicate the full scope of its contents. It does not deal merely with the economics of natural gas in Texas. Statistical data from the entire United States has been collected and interpreted, and the discussion in the chapters dealing with the economics of the Utilization of Natural Gas, Employment of Natural-Gas Liquids, Natural-Gas Production, Natural-Gas Reserves, and Transportation of Natural Gas are national in scope and content. It is only in the chapters on Taxation of the Texas Natural-Gas Industry, Public Control of the Texas Natural-Gas Industry, and Conservation that the authors, of necessity, were compelled to restrict their discussion to Texas. A bibliography of valuable source material will be found at the end of each of these chapters.

Every informed person is aware that hydrocarbon minerals such as coal, petroleum oil, and natural gas are competitive in many of their uses, and of the increasing importance of natural gas and natural-gas liquids in our economic life. For example, in recent years in Texas we have witnessed the development of a petrochemical industry along our Gulf coast with tremendous plant investments which is having a profound effect upon the economic life of that area; we have seen natural-gas liquids made available for the comfort and convenience of our farmers and ranchers; and we have viewed, not always without mixed emotions, the construction of interstate gas-transmission lines through which this natural resource of our State has moved in increasing volume to the population centers of the United States.

While these, and other developments within the natural-gas industry, in a general way, are matters of common knowledge, few persons have any comprehensive understanding of the special economic problems that are peculiar to the production, utilization, transmission, storage, taxation, and conservation of natural gas and natural-gas liquids, nor was there, heretofore, any single source to which they could go to acquire this knowledge. This book supplies this need in admirable fashion.

Dallas, Texas — A. W. Walker, Jr.

MABEL A. ELLIOTT: *Crime in Modern Society*. (New York: Harper & Brothers, 1952, Pp., 874, $6.00.)

This is a new, full-bodied textbook that, in the author's own words "aims to provide all the material, new and old, vital to a well-rounded course in criminology". There are a total of 29 chapters, grouped under

five general headings or sections. Each chapter carries a short, selected and annotated bibliography in addition to extensive footnotes and citations throughout the body of the text. There is a special 16-page inset of pictures giving some views of prison interiors and exteriors, and there is a careful index of names and a separate, detailed "index of subjects".

As an inclusive text, seeking to provide all basic information needed in the field, there is necessarily a continuous intermixture of historical materials, theories with names, dates and evaluations, compilations of census data, summaries of research studies, numerous short case-histories, as well as frequent references to other writers and contemporary books in the criminological field. Much of the material is descriptive and factual rather than analytical, and there are numerous statistical tables and diagrams presented more for the purpose of providing some of the basic data than as devices or methods of proof or analysis.

Though the author admits to a sociological bias there is little of any such special emphasis other than a broad environmentalism with a general minimization of, or rejection of heredity and constitutional factors as of meaningful significance in the analysis of criminal behavior. The currently popular psychiatric explanations are avoided, or rejected as not susceptible of proof. The descriptive facts about poverty, economic insufficiency, the class structure, low status and misfortune generally, in relation to crime, tend to be discussed at face value without any reference to their possible roles as products of unfavorable selective factors.

In a field already characterized by several excellent texts, this new book will nevertheless make a strong bid for widespread use. Its carefully balanced presentation of a vast amount of current information will recommend it to many as especially useful for large, undergraduate classes.

The author's own judgment is that "All that textbooks should do, at best, is to provide an adequate skeleton for courses." She has written a book that fulfills well that basic requirement. Both students and teachers will find it helpful and provocative.

University of Minnesota George B. Vold

CARSUN CHANG: *The Third Force in China.* (New York: Bookman Associates, 1952, Pp., 345, $4.50.)

FRANK MORAES: *Report on Mao's China.* (New York: The Macmillan Co., 1953, Pp., 212, $3.75.)

At a time when most thinking on Chinese affairs can be described as endorsing an *either* Chiang *or* Mao position, it is at least interesting to encounter someone who writes off both Kuomintang and Communists as hopelessly totalitarian. For the present this puts the author in a political never-never land but provides the reader with a realistic—at

least up to the "where do we go from here?" point–summary of Chinese political theories and political history since the 1911 revolution.

The title may be misleading for it is a current history that Carsun Chang has written, although history as seen through the eyes of one whose entire public career appears to have been spent in the role of mediator. As founder of the Chinese Democratic-Socialist Party, a minority member of the war-time People's Political Council, a member of China's delegation to the San Francisco UN conference, one of the leaders of the Democratic League most helpful to General Marshall during his 1946 mission, author of the first draft of the 1947 Constitution, and one attacked at various times by both major parties, Chang is unusually qualified to make this report to the west. Especially when his own bias for a written constitution and a responsible government under law and his sympathy for western-type democratic governments are so clearly revealed.

Except for some details of the KMT-Communist negotiations during the Marshall mission, with which Chang was closely associated, there is little new material in this book, although there is interesting speculation about the lines U. S. policy might have taken in 1945-46 and provocative analysis of the key position of Manchuria in Chinese political affairs. After pointing out the contradictions in the theory of Sun Yat-sen and the totalitarian tendencies in that theory, the familiar story of KMT-Communist collaboration, opposition, and finally civil war is retold. Chiang and the KMT are condemned for refusal to go beyond the "political tutelage" stage, for inefficiency and corruption, for inability to carry through reforms or to win popular following, and for use of terror and repression. " . . . the Chinese people . . . thought that no change could be any worse than the conditions under which they ware living. They have now learned to their regret that there is indeed no difference between the devil and the deep sea."

The Communists similarly stand condemned. Although acknowledging the ability of the party leadership, and the soundness of some of the economic and social programs, Chang cannot tolerate the one-party system, the use of terror and violence, the imposition of a strict orthodoxy on all aspects of life, and especially the subservience to a foreign power. He imputes greater and longer-standing Russian control of the Chinese Communist Party than have many observers and has his own theory of how the Chinese were persuaded to intervene in Korea.

In concluding Chang the philosopher wins over Chang the politician. He argues that there is a great desire for freedom and self-government in China, that western rationalism may be traced back to Mencius, that Jeffersonian precepts are inherent in Chinese thinking, and that a strong and democratic China can emerge if this "third force" is allowed to find

expression. Unfortunately the Communists are so strong that this "third force" is likely to have a chance only as a result of a third world war.

Even this may be unlikely if the Communists can carry through for one or two generations the programs Frank Moraes observed in his five-week tour of Red China in 1952 as a member of an Indian cultural delegation. Editor of *The Times of India*, and with previous experience in China, Moraes expresses admiration for certain economic and social gains made under the Communists (although he suspects the results have been exaggerated), but he is more concerned at the apparent success of the Communists in gaining acceptance of their Stalinist-Maoist interpretation of history and political views, and the rapidly-growing unquestioning obedience and loyalty to the state—especially on the part of the younger people. He is inclined to predict that Communism is one "conqueror" the Chinese civilization will not "absorb." A timely, excellent volume of reportage.

University of Texas — James R. Roach

HERBERT BISMO: *The Philosophy of Social Work.* (Washington, D.C.: Public Affairs Press, 1952, Pp., 143, $3.25.)

This volume is a pioneer attempt to make a clear formulation of a philosophy for the field of social work. Dr. Edward C. Lindeman, who writes the introduction, suggests that the chief importance of the book is that the author has made a beginning on this "laborious task". With that viewpoint this reviewer is in agreement.

Social workers, social scientists, and interested laymen will be grateful to the author for this sincere, intellectual, and compact presentation of the basic concepts which underlie social work in the United States. He has managed in six chapters to cover a broad area, beginning with the present state of social work philosophy and extending through a proposed program of action for social workers.

It is all too common for authors in the social sciences and related fields to drum endlessly on the objective character of their writings. Mr. Bismo has not made that error. He has, on the contrary, conceded at the outset that such a study as he has attempted cannot be disinterestedly objective. His propositions are, however, strikingly sound and well founded, certain to be stimulating and challenging, whether or not they happen to coincide with the predilections of some of his readers.

Of particular interest to teachers and students in the field of social work, as well as the workers themselves, will be the following: (1) In chapter II, a statement of the functions of the worker in relation to values. (2) In chapter IV, a statement of seven avenues through which social workers may participate in social action. (3) Chapter VI provides, among other significant data, a provocative discussion of the potentialities of social action as limited by our educational system.

Langston University — Thelma Ackiss Perry

ALEXANDER HEARD: *A Two-Party South?* (Chapel Hill: The University of North Carolina Press, 1952, Pp., 334, $4.75.)

CORTEZ A. M. EWING: *Primary Elections in the South, A Study in Uni-party Politics.* (Norman: University of Oklahoma Press, 1953, Pp., 112, $2.75.)

As a result of the rifts in the Democratic party in the South in the presidential elections of 1940 and 1944 and the "cracking" of the "Solid South" in 1948 and 1952, much speculation has developed as to whether or not this unique political section is shifting to a two-party system. The authors of the two books under review, who completed their writing before the election of 1952, advance varying guesses as to this eventuality. Heard expresses "the belief that in the long run Southern conservatives will find neither in a separatist group nor in the Democratic party an adequate vehicle of political expression. If this is true, they must turn to the Republican party." Ewing, on the other hand, states that "I do not, at present, share Alexander Heard's guarded optimism looking to the emergence of a two-party South. I agree that there are social changes of great moment occurring in the section, but these are insignificant in comparison with those emanating from the Emancipation Proclamation and the defeat of the South on the field of battle."

Even in the light of Eisenhower's victories in Virginia, Tennessee, Florida, Oklahoma and Texas, this reviewer is inclined to agree with the latter statement. A genuine two-party system will not become a reality in the South until both parties offer candidates for every elective office from President to constable and until the Republican party makes strenuous efforts to get its nominees for all these offices elected. As a matter of fact, there are many states outside the South in which no genuine two-party system exists for state and local purposes and in which there is much less tradition to support such a situation than in the South. Certainly, hatred of the already vanished regimes of Roosevelt and Truman and enthusiasm for Eisenhower are not enough to convert large blocks of Southerners permanently to the Republican party. So far, there are few signs that a formidable Republican party in the South is in the making and that Democratic leaders and followers are deserting their habitual affiliations. "Presidential Republicans" do not mean the creation of a Republican party.

This is not to say that a two-party system would not improve the politics of the South. Both Heard and Ewing present sufficient evidence to support the need of such a system. Both, however, in different ways present many facts which show how deep-rooted the one-party system is in the South and how intertwined it is with the political folkways, habits and electoral institutions of this section. The Negro may have been largely responsible for the one-party system, but his

changed political status and the newer social and economic developments in the South will not speedily undermine the system.

Both these books are in reality supplements to V. O. Key's *Southern Politics*, and they complement each other. *A Two-Party South?* was made possible by the Rockefeller Foundation, the Bureau of Public Administration of the University of Alabama and the Institute for Research in the Social Sciences of the University of North Carolina. It makes use of the wealth of research material gathered in connection with the Key study. It deals broadly with the factors that explain the Southern one-party system and examines the conditions which might eventually create a two-party system. *Primary Elections in the South* is a study which takes into account the peculiar and varying features of Southern primary systems and which is based upon the statistics of 3,843 primary election nominations in the South. It was undertaken to determine whether or not "the intra-party struggle produces results that are at variance with the demands of democratic procedure." The general conclusion is that it does and that political fights within a single party's primaries are no substitute for a two-party system and for real decisions in general elections. Even so, both books lay great stress upon the marked variations which exist within the one-party system from state to state, and, hence, are cautious in making generalizations. Both writers are aware also of the dangers of drawing comparisons with the party systems of non-Southern states. As Heard states: "Not a great deal is found in the books about the nature of two-party governments below the national level." Thus a final evaluation of the findings of these studies must await similar studies in other states, but it cannot be doubted that the works under consideration have made real contributions to a better understanding of Southern politics.

The University of Texas O. Douglas Weeks

FRANK FREIDEL: *Franklin D. Roosevelt: The Apprenticeship.* (Boston: Little, Brown and Co., 1952, Pp., 456, $6.00.)

For those readers who have viewed with alarm the increasing number of uncritical books on various aspects of the career of Franklin D. Roosevelt, this volume will come as a welcome change. The first of a projected six-volume life, this work is surprisingly objective, shows patient and diligent research, is carefully documented, and is brilliantly written. Certainly if the remaining volumes fulfull the promise set by this, Dr. Freidel will have written a monumental biography.

The author begins with a summary of the Roosevelt and Delano geneology and then traces Franklin's boyhood years, selecting anecdotes and episodes which indicate the development of his personality and ideas. Young Roosevelt possessed ambition and natural charm, wealth and

social position, and had acquired, at odd moments, an understanding of how the common man thought and acted.

Roosevelt received his formal education at Groton, Harvard and the Columbia Law School. The author is frank in pointing out that Roosevelt was far more interested in social and athletic activities and in college politics than in his studies. There was in fact very little in his curriculum to fit him to meet the problems facing him as President.

Roosevelt's three years as a law clerk in a distinguished and conservative Wall Street firm is regarded as the only dormant period in his life, and was ended when he ran for and won a seat in the New York Assembly. In state office his tenacious and well-publicized opposition to Tammany secured him a state-wide reputation. This service at Albany is treated in some detail for it was here that he acquired much of his delicate sense of political timing and his knowledge of when to compromise; and it was at Albany that he met and gained the friendship and loyalty of a truly great publicist, Louis McHenry Howe.

An early and enthusiastic supporter of Woodrow Wilson, Roosevelt was rewarded for his efforts by an appointment as Assistant Secretary of the Navy. Only thirty-one years of age, he was twenty years younger than Secretary Daniels, and only half the age of many of the admirals with whom he dealt. Dr. Freidel devotes more than half of his book to Roosevelt's seven and one-half happy and successful years with the Navy. He describes Roosevelt's fondness for ceremony, his dynamic confidence, and the many acquaintances which he made with junior officers who were to serve in important posts during the Second World War. An Assistant Secretary, Roosevelt was inclined frequently to regard his superiors as men of vacillation and limited vision; occasionally he was guilty of minor acts of insubordination, benignly overlooked by Secretary Daniels. Although Dr. Freidel notes the outstanding accomplishments of the vigorous young administrator, he does not attempt to give him credit for achievements which were not actually his.

At the close of the war in 1918, Roosevelt indeed had served well his apprenticeship. Only thirty-seven, he had stored up a vast knowledge of administration, politics and even diplomacy which would serve him well in the coming decades.

Texas A. & M. College Claude H. Hall

JOSEPH B. GITTLER: *Social Dynamics: Principles and Cases in Introductory Sociology*. (New York: McGraw-Hill Book Co., 1952, 346 Pp., $4.00.)

Background for judging this new introductory sociology text includes the recent considerable flurry of protest in professional journals against more introductory texts, new and "revised," mostly voluminous and encyclopedic, and adding little except expense for the introductory

student; and the current widespread vogue among young social science instructors for the case approach as a teaching method. In both regards, Professor Gittler's book comes off well, for, as a case book, it is aimed at a definite felt need in the field which has not yet been supplied; and it is neither voluminous nor encyclopedic.

Of its 346 pages, some 235 are given over to well-selected case materials, and another 15 to footnotes, which are grouped at the ends of chapters. This leaves a little more than ninety pages of text, which is, necessarily, highly condensed, but well and lucidly written. Text and cases are grouped in seven "parts," which are really chapters, as follows: "The Nature of the Social Group and the Meaning of Sociology," "Sociology of Personality," "The Social Group and Collective Behavior," "The Community and Social Class," "Social Processes and Forms of Social Interaction," "Culture and Socio-cultural Change," and "Some Problems of Personal and Social Disorganization."

The justification of the preponderance of case materials leans heavily on Cooley's notions of sympathetic identification and objective introspection as special modes of social learning: "Knowledge of human nature demands that one assume the role of the other and experience, with emotion and empathy, the other's covert nature—his attitudes, values, feelings —as well as his manifest overt character." This is certainly one approach to learning, but it will meet with little enthusiasm from demographers, statisticians, and the sociometrics school. This suggests that the book will often need supplementation depicting other approaches, or will itself often be used as a supplementary book.

The index is obviously inadequate, especially if the book is to have value as a supplementary text. Under "A" the only terms of sociological significance listed are "accomodation" and "assimilation" although at least a dozen terms should be listed.

Professor Gittler has done a very creditable piece of work, which should make exciting but fruitful reading for students, and challenging teaching for the instructor. He knows his field, and his case materials fit the subject matter.

University of New Mexico Paul Walter, Jr.

DONALD PETERSON KENT: *The Refugee Intellectual: The Americanization of the Immigrants of 1933-1941.* (New York: Columbia University Press, 1953, Pp., 315, $5.00.)

According to American immigration statistics, 104,098 German and Austrian citizens immigrated into the United States between 1933 and 1941. The overwhelming majority came not for economic reasons, but to escape persecution on racial or political grounds. They were neither workers nor farmers, but predominantly members of the free professions. In that sense, their immigration presented new aspects, which were studied

by a number of American social scientists under Professor Kent's leadership with the help of a grant of the Oberlander Trust. The result of their inquiry has now been published in a volume which will be of interest to all those dealing with the problems of Americanization.

Though the immigration of these Central-European intellectuals started at a time of a great economic depression, nevertheless most of them—except for the lawyers and writers—could easily be placed in positions equal to those achieved by their American colleagues. The happy outcome of such a difficult enterprise can be attributed partly to the hospitality, the traditional friendliness and the open-mindedness of American intellectual circles and partly to the adaptability of the immigrants. Most of them, as the book shows, have now for years participated actively in American social and community life. Their children have been completely integrated into American life.

The book is rich in interesting details. No student of immigration or assimilation will be able to neglect it. Its authors arrived at the conclusion that probably no other large group of immigrants have ever surpassed the rapidity and the intensity with which the intellectual immigrants in the 1930's assimilated themselves into American life.

City College of New York Hans Kohn

PETER GAY: *The Dilemma of Democratic Socialism.* (New York: Columbia University Press, 1952, Pp., 334, $4.50.)

IRA KIPNIS: *The American Socialist Movement: 1897-1912.* (New York: Columbia University Press, 1952, Pp., 496, $6.00.)

These two volumes from Columbia University Press are useful contributions to the literature on Socialism. Dr. Peter Gay's study is concerned with the development of Revisionary Socialism in Germany and centers around a study of the thought and contributions of Edward Bernstein. Until the appearance of Dr. Gary's book there has been no adequate presentation in English of Bernstein's views despite the fact that his school of thought profoundly influenced the development of German Social Democracy. Dr. Gay handles his subject well and dispassionately evaluates the evidence on such controversial points as Bernstein's relation to Fabianism, his attitude towards World War I and the voting of war credits, and the nature of Bernstein's "revision" of Marx. Bernstein's doctrine of evolutionary rather than revolutionary socialism, his stress upon the necessity of Democratic procedures and goals, his rejection of rigid and dogmatic Marxian theories combined to make him the logical theorist of the conservative wing of the German Social Democratic Party. Had his point of view dominated the socialist movement the totalitarianism of Leninism might have met defeat. Instead the superior organizational ability of Lenin aided by the events of the Russian Revolution combined to split the Marxian movement into two irrecon-

cilable groups with Bernstein's followers occupying the right flank of the Social Democratic faction. The author is critical of Bernstein's over optimistic views on the development of the capitalistic system as well as sympathetic with his democratic idealism. As a result there emerges a friendly and constructive analysis of Bernstein's position in Socialist thought which makes the book a valuable and significant contribution in the field.

Professor Kipnis' work covers an area in which extensive research has already been done. To this extent it is less of a pioneering work for English readers than Dr. Gay's. Its chief value lies in a careful and exact summation of the history and tactics of the American Socialist Party from its beginning in the 1850's to 1912. Stress is laid by the author on the sociological background of the American socialist movement as well as upon its doctrine and factional disputes. The book may well be used as an introductory orientation to the two volumes on *Socialism and American Life* recently published by Princeton University Press. It will long remain a valuable reference work on the period which it covers.

The University of Texas H. Malcolm Macdonald

DAVID EASTON: *The Political System.* (New York: Alfred A. Knopf, Inc., 1953, Pp., 320, $4.00.)

This is a much needed book. It argues the necessity of developing political theory as a tool for research in the face of a manifest failure of political theory in recent decades to serve any such purpose. The book is devoted to explaining what shape and form a successful theory of politics will take. Some, including the reviewer, consider this a roundabout way of approaching the problem. It is doubtful how one can solve this problem except by some degree of success in actually making a theory. Without such a successful construction, an inquiry into the characteristics of a successful theory is necessarily speculative. Nevertheless, it appears that this book will be of much value to persons interested in theory construction.

Easton's primary concern is what he calls "a broad-gauge theory", or conceptual framework for a whole discipline. He is somewhat deprecatory of what he calls "synthetic theories", such as are designed to elucidate particular selected problems. This emphasis on "broad-gauge theory" raises two questions. (1) Is it not probable that a successful conceptual framework is most likely to arise on the basis of many successful "synthetic" theories? (2) Does not this emphasis lead Easton to too much attention to "defining the discipline" in a philosophical sense? His thesis that "the state" is too narrow, and that "power" is too broad, a subject for political science and his identification of the "political" with the authoritative allocation of values is stimulating and convincing in a

practical sense. Those who regard interdisciplinary lines as historically accidental, however, will distrust the a priori character of the argument and will regard the assertion as amounting only to a contention that "the authoritative allocation of values is a likely center around which a useful theory might be developed."

Easton traces well two historical sequences: (1) the implicit theoretical concerns of successive stages of American political research and (2) the course of development by which the subject "political theory", so-called, has become very nearly a phase of cultural history and has very largely ceased to have relevance to the construction and criticism of either moral or factual theories. In both of these matters Easton has done much to clarify the broad lines of the past history of American political science.

The University of Connecticut — G. Lowell Field

CARLTON BEALS: *Stephen F. Austin: Father of Texas.* (New York: McGraw-Hill Inc., 1953, Pp., 268, $3.50.)

I have spent a good part of a long and arduous life of study and teaching in preparing material for an understanding of the life of Stephen F. Austin. The bulk of the material did not become generally available until the beginning of the twentieth century, when the estate of Colonel Guy M. Bryan, nephew of Austin, and heir of the papers preserved by Moses and Stephen Austin, donated the documents to The University of Texas. To these were added, by long and wide-spread search all appropriate papers found elsewhere—in Mexican and American archives, in newspaper files, here and there. In 1919 I was fortunately able to publish, almost without abridgement, a volume (1824 pages) of these Collections, through the American Historical Association; in 1922 another volume (1008 pages) through the same medium; and in 1926 a third volume (496 pages), at The University of Texas. In 1926 I published a comprehensive *Life of Austin*; and in 1935 *The Father of Texas: A Life of Stephen F. Austin.*

Through the use of these materials, I acquired an appreciation of Austin, his problems, and his great public services. I confess a real affection—objective, I hope—for his intelligence and character. I am grateful, therefore, for any enlargement of the means for appreciating his great work. The author has written a brief, straightforward narrative; his information is adequate, and with slight inaccuracies, of little consequence, correct; I concur in his judgments of Austin and in general of his contemporaries. I would correct the date of Travis' attack on Anahuac to June, 1835; change Martin Wiley to Wiley Martin, page 221; and the "Further Reading" list, page 264, could be advantageously edited.

The University of Texas — Eugene C. Barker

HIRAM MILLER STOUT: *British Government.* (New York: Oxford University Press, 1953, Pp., 433, $5.00.)

Mr. Stout has compiled, in this typical American textbook, the most comprehensive survey of British government to appear in the post-war period. In the book's four hundred closely-printed pages the author ranges from the Constitutional structure through the political processes and on into the administration of the diverse functions with which the government is engaged. And he closes with chapters on the Commonwealth and the Empire. Throughout the whole work Mr. Stout demonstrates a familiarity with even the most obscure aspects of politics and administrative procedure.

The volume is written for American readers, particularly for college and university students. This approach in itself gives rise to problems. It is difficult to know, for instance, how much political knowledge one may presume his readers to possess. In some cases the author perhaps has oversimplified, as when he takes a round-about way of explaining the simple fact that there is no judicial review in Great Britain. The use of the phrase "in olden times" is likely to irk the more sophisticated reader, too. It may safely be presumed that an American who tackles the study of Britain's government will be fairly conversant with the general aspects of politics. On the other hand, the repetition of certain basic premises in different contexts, while noticeable to a reviewer reading the book straight through, will prove useful to students, who undoubtedly will be intermittent in their study.

Reading a book on British government by an American (and who but an American would have the temerity to refer to a Chief Constable as a Police Chief) tends to produce nostalgia for the excellent monographs by British authors on their own government. It is unfortunate that the desire for compendia in the United States has resulted in the textbook's having practically driven the monograph out of the commercial field. This comment is not a criticism directed especially at the work under consideration, for, indeed, one must recognize that the talents and effort expended on this book were far from meagre. It is rather a reflection on what might have resulted had the author turned his energies to other things. If a thorough and readable treatment of this subject was needed, Stout's *British Government* does an excellent job of supplying that need.

Louisiana State University William C. Havard

CHARLES M. KNEIER and GUY FOX: *Readings in Municipal Government and Administration.* (New York: Rinehart & Co., Inc., 1953, Pp., 486, $3.90.)

STUART ALFRED QUEEN and DAVID BAILEY CARPENTER: *The American City.* (New York: McGraw Hill Book Co., Inc., 1953, Pp. 383, $5.50.)

In the general field of American government there have appeared in

recent years a number of collections of readings for use as a supplement to the textbook. Although most of these include some material on local government, the focus tends to be upon national and state governments. The teacher of local government has not had available, therefore, the kinds of published readings provided for American government courses. This has been unfortunate, for a wealth of critical and documentary material has appeared in the local government field during the past decade or so; but much of it has been difficult for the teacher to acquire and use effectively in his classes. The appearance of a book of readings in municipal government and administration is, therefore, of unusual interest.

This work by Professors Kneier and Fox has been ably and thoughtfully edited. It should stimulate student interest and class discussion. The readings are both documentary and critical essay in nature—with a few tables and charts. They tend to be short, rarely over four pages and many only one or two pages in length. It should be noted that this edition is in paper binding, although it appears to be sturdy enough for individual use. It may, however, have a short life under heavy library use.

The book by Professors Queen and Carpenter is designed as a college text for upper division students in urban sociology. Their approach emphasizes the "rising degree of integration of metropolis, city, town, and country into a common metropolitan community;" and makes full use of recent research along these lines. Political scientists should find this work a useful adjunct to their study and teaching of urban government.

The University of Texas — Wilfred D. Webb

HENRY A. WELLS: *Monopoly and Social Control.* (Washington, D.C.: Public Affairs Press, 1952, Pp., 158, $3.25.)

In this small volume, Mr. Wells introduces a somewhat novel approach to the problem of monopoly. Whereas most books in this field examine in detail various "techniques" for exercising monopoly power and alternative methods which might be used to curtail such power, the primary concern of the author has been to explain the philosophical basis for social control. To this end, the problem of monopoly is used as a kind of point of departure for the exposition of his central thesis, which is that man can and should control his social environment rather than accept any particular development, e.g., the growth of monopoly power, as "fatalistically" inevitable. In the *Foreword* of his book, for example, the author asserts that the "crucial problem of the age" is the "exercise of the national free will versus the fatalistic drive of historical determinism." Such is the recurring theme throughout the book, for the present-day monopoly problem is consistently viewed as a symbol of intellectual confusion which has stemmed from the acceptance of a "deterministic" social philosophy.

After developing the above thesis in the first two chapters, the author devotes four chapters to a brief analysis of three reasonably distinct historical approaches to the problem of controlling the social environment: (1) Utopian schemes, (2) Marxian "scientific socialism", and (3) the instrumental or pragmatic social philosophy, which he finds to be in accord with the "American tradition". Although students of social philosophy will find little that is novel in these chapters, the author is to be commended for presenting his interpretations clearly and forcefully. The remainder of the book consists primarily of descriptive material which illustrates the extent to which monopoly power is exercised in American industry. Extensive use is made of the T.N.E.C. Reports, as well as special industry studies published during recent years.

Most readers will probably agree with Mr. Wells that there should be no place in modern science and philosophy for a belief in absolute, "deterministic" laws of social development. However, many will question his assumption that monopoly is "the most serious problem" of social control faced in the U. S. today. Furthermore, since the author insists that the only solution of the monopoly problem lies in the passage of new anti-trust legislation, it is unfortunate that he does not offer specific examples of statutes which might be more effective than those currently in effect.

Texas A. & M. College Alfred F. Chalk

HERBERT A. BLOCH: *Disorganization, Personal and Social.* (New York: Knopf, 1952, Pp., 608, $5.00.)

EUGENE L. and RUTH E. HARTLEY: *Fundamentals of Social Psychology.* (New York: Knopf, 1952, Pp., 740, $5.50.)

Dr. Bloch's expressed purpose in his book is to establish a theory of personal and social disorganization and to indicate its possible application to various social problems. Problems dealt with include adolescent tensions, delinquency and crime, sexual pathologies, the alcohol problem, drug addiction, gambling, mental health, suicide, and problems related to mobility. Conspicuously absent are problems in the area of the family, particularly in view of the author's stress on family influences in personality development.

In part one both a theory of personal and social disorganization and a theory of personality are presented. According to the latter, the ways in which the child's needs are responded to by the environing adults, particularly the family, molds the organism into a psychogenetic pattern consisting of a complex organization of needs and of means to satisfy them. Personal and social disorganization appear when the total life situation is such that the psychogenetic drives cannot be satisfied through the means developed in the behavior organization of the individual. This

results from a lack of institutional congruence, a consequent of social change.

Bloch's application of this scheme leaves much to be desired. The emphasis throughout is on personality variables, needs, wishes, compensatory satisfactions, etc., rather than on the situational aspects in the social structure. Occasionally, as in the discussion of drug addiction, Bloch relies on a theoretical schema quite the opposite of his own.

That several inaccuracies occur throughout the book is to be expected, in view of the diversity of specialized fields of knowledge covered. However, a lack of acquaintance with basic principles of heredity is more surprising. On page 365 the misconception that contraception may affect the sex ratio if parents curtail childbearing after the birth of the male child is presented, and on page 514 occurs the conclusion that since 11 percent of the feebleminded are progeny of feebleminded parents, 89 percent of feeblemindedness is acquired through causes other than inheritance.

The book with the exception of part one is simply written. In part one, however, the author shares the penchant with most of the present day theorists in sociology for making relatively simple ideas highly complex through couching them in abstract, ill defined terms. In the opinion of the reviewer, this makes this section of the text pedagogically impossible.

The Hartleys have similarly set for themselves an ambitious task, that of integrating the findings and thinking in anthropology, sociology, psychology, and psychiatry in order to provide an outline of basic principles governing the nature of human interaction. Although a topical approach reflecting lines of research interest rather than a systematic theoretical approach is used, principles are made explicit and experimental findings presented in their support. As might be expected, the theoretical orientation is highly eclectic. Main reliance is placed on reinforcement learning theory, with strong emphasis on perception and cognition in the learning process.

Part one deals with communication—a topic the inclusion of which makes this text a welcome addition to the field. However, the emphasis on barriers to communication rather than on the factors making communication possible seems unfortunate.

Part two on socialization is generally well done. After a well documented presentation of the effects of group membership on behavior, the topic is broken down into the effects of socialization on perception, action, and emotion. Rouke's chapter on delinquency systematically reviews the contributions of the various disciplines and stresses the advantages of an interdisciplinary approach. Sociologists may well feel that the contributions of sociology are inadequately presented, hence unjustly criticized.

Part three focuses on the functioning of the individual in the group. The treatment of group dynamics, while not complete, is commendable in view of the general neglect of this area in the average textbook. The presentation of social role, status, and attitudes is of a standard nature, that of leadership somewhat unique in that the emphasis is on situational factors rather than personality traits.

As a whole this book compares quite favorably with the general run of textbooks in the field. Its strong points are its readability, broad coverage, wealth of empirical evidence cited, and its interdisciplinary balance. Its main weakness lies in the lack of critical evaluation of much of the evidence presented and in the relative dearth and inadequate treatment of negative evidence. It may be argued that any emphasis on exceptions to the rule only confuses the student, but should the student be any less confused than the worker in the field?

University of Arkansas Carl W. Backman

M. B. SMITH: *The Single Woman of Today*. (New York: Philosophical Library, 1952, Pp., 130, $2.75.)

This is a plaint on behalf of those unfortunate women who lose out in the struggle for a husband; the only desirable career for a desirable woman, according to the author.

Not only is this a most sad state of affairs, it is also positively dangerous since "an appalling number of women die in England in middle age as the result of idleness of their genital organs" as a result of the degeneracy of men who choose those who should be drastically rejected and reject those who would be gladly chosen but instead are left to the ravages of cancer and other diseases in a state of unblessed solitude. Perhaps the characteristics which make the undesirables the chosen would also protect them from cancer, though the author does not say so.

It is true of course, that marriage is not wholly essential to exercise of the genitals, and this alternative is explored in some detail. But life as a homosexual, sex liaisons outside marriage, auto-eroticism are rejected for a variety of reasons. It is suggested that pensions and marriage bureaus might help, but no great hope for either is expressed. Apart from these, the alternatives seem to be a "laugh, clown, laugh" attitude, fanatical feminism, projection of her failure onto others, sophistication, solitude or psychosomatic illness. None of these appear attractive. Best of all, she may find surcease in work of service to others, as in nursing or as a physician. But even this is a poor substitute, in the opinion of this author. What every woman needs and seeks is a mate; such is her biological and social fate.

As may have been intimated above, the book is not wholly successful either in delineating the problem of the unmarried woman, or in offering hope to this group. There is about it a sense of vexed frustration.

The University of Texas Harry Estill Moore

BRUCE WINTON KNIGHT and LAWRENCE GREGORY HINES: *Economics: An Introductory Analysis of the Level, Composition, and Distribution of Economic Income.* (New York: Knopf, 1952, Pp., 917, $5.75.)

Knight and Hines have produced a large book, but not a good book. It suffers from two major faults. One, a weakness of most of the orthodox economic manuals, is its failure to exclude. The standard manuals are becoming as cluttered as old attics. None of the used but no longer serviceable economic furniture is ever discarded, but is placed somewhere in an inconspicuous paragraph. The authors maintain an extremely cluttered attic.

The second fault stems from a claim to eclecticism. The eclecticism leads to some startling results. The most glaring result is the acceptance of both Say's law of markets and the Keynesian analysis of the level of income and employment. This unusual feat is accomplished in the same chapter. But their eclecticism has a multiplier effect. On top of accepting the Keynesian analysis, it is claimed that the chief causes of fluctuating income and employment are monopoly and unsound monetary policy. In other words failure of automatic price and wage adjustment plus failure to adjust the quantity of money are the causes of depression. In the light of what has been learned on the subject in the last twenty years, this analysis is as inadequate and out of date as a Model-T.

Despite its faults, this volume will probably be a fairly popular text. It goes along with the temper of the times by identifying democracy with capitalism and autocracy with government. The book will provide balm for all of those messianics who see the specter of government as the cause of all of our woes of the past quarter century.

The University of New Mexico David Hamilton

ROBERT F. WINCH: *The Modern Family.* (New York: Henry Holt and Co., 1952, Pp., 493, $3.90.)

Textbooks in sociology are necessarily written partly for classroom use and partly as a monograph contribution by the author to the development of his field of interest. The effort to combine these purposes often results in an unsavory amalgam of stodginess and irresponsibility which it is flattering to term eclecticism, and which has been adequately criticized by Mills and Muzumdar.

Robert Winch, however, has achieved what I think is a real synthesis of the classroom and monograph functions in *The Modern Family.* Like other books, this one is not perfect; it suffers from compression—intentional, but too extreme—in the historical, culture-comparison, and family disorganization aspects of family study. Many sociologists will consider that disproportionate attention is devoted to the problem of socialization and of personality development within the family and related structures,

and to setting forth Winch's current hypotheses on love and complementary needs. The present reviewer does not find this disproportion a serious defect, since Winch's interest in the sociology of socialization and personality development is actually a unifying theme in the book, giving it a solid form and an unusual enthusiasm, as well as significance for research.

Many students will be stimulated by the careful attempt of the author to integrate the Cooley-Mead-Thomas-Faris tradition with portions of the Neo-Freudian theories, and he has done a good job of linking these developmental theories together within a conscientious sociological framework.

The Modern Family begins with a compact definition and cross-cultural sketch of the family, and then seeks to indicate operationally by means of five functions: economic, status-conferring, reproductive, socializing, and security-giving, various perspectives from which the family may be studied. Socialization and personality development next receive extended attention. The analysis of love, romantic love, courtship and marriage follow, and there is a very short concluding chapter on family organization and disorganization. A brief appendix deals with dating, rating and college fraternities.

A fine feature of this book is the careful selection of the most recent journal and census materials, and a minimum use of other authors' formulations of these materials. The handling of statistical data in tricky areas such as that of the relation of divorce and childlessness, of income and fertility, is more than competent. This text will be a real pleasure to any instructor who has suffered from muddled or insufficient treatments of such data. It should be of interest to instructors in education and psychology dealing with the social aspects of human development and learning.

The University of Texas Ivan Belknap

R. GORDON HOXIE (Ed.): *Frontiers for Freedom.* (Denver: The University of Denver Press, 1952, Pp., 327, $3.75.)

In the summer of 1951 the silver jubilee of the Social Science Foundation at the University of Denver was commemorated appropriately with an Institute of World Affairs. The Institute brought together over a five week period an impressive group of participants including Francis Sayre, Ralph Bunche and Charles Malik, Anthony Eden and Henri Bonnet, Senators Flanders and Duff and Secretary Chapman, Arthur Hays Sulzberger, a spate of academicians and many others. As Professor Hoxie's condensed version of the proceedings makes clear, the Denver public was once again splendidly served by the Foundation.

The general theme of the Institute was "Frontiers for Freedom." For most such efforts directed towards achieving a broad coverage of con-

temporary world problems a unifying theme is hard to come by and the choice rarely quite fits. In this respect the Denver institute left something to be desired. The principal subjects of discussion, which also form the main divisions of Professor Hoxie's volume, were the United Nations, underdeveloped areas, the "democratic alliances," freedom on the domestic American scene, and human rights. Some overlapping among the fifty-five papers and addresses was unavoidable.

The proceedings ran to a thousand pages. Ruthless editing has here reduced the number to three hundred. The editor has added at the start of each of the divisions of the volume an introduction identifying the speakers and relating their papers to the main theme. Also included are some excerpts from question and answer periods.

Since for reasons of space the published version of the proceedings had to be so severely limited, perhaps a more valuable book for the general public would have resulted if the principal addresses had been included *in extenso* and the rest omitted entirely. The editor has no doubt preserved for us what he calls the "lasting fibre" of the Institute's proceedings, but the "fibre" by itself makes for pretty dry reading.

Frontiers for Freedom is mainly useful for those who were privileged to be present at the Denver Institute; they will find it a welcome echo of a memorable event.

Stanford University — James T. Watkins IV

JOSEPH TRENAMAN: *Out of Step.* (New York: Philosophical Library, 1952, Pp., 223, $4.75.)

This is a very readable account of an experiment undertaken by the British Army in September, 1941 to help soldiers under 21 who were disciplinary problems. Three S.T.U.'s (Special Training Units) were set up for these young soldiers who were "out of step." The author was in charge of Education at one of them, so that his book derives from first-hand observation and experience. Daily academic classes were a part of the program at these experimental camps. The offenders with whom Mr. Trenaman worked themselves suggested, as part of their class discussions, that they should all pool their ideas on how they got into trouble so that others might profit from their conclusions. This gave the author the opportunity to set up a scientific study by means of questionnaires which were filled out by two hundred subjects.

The book handles its human material on three different levels. It attempts to trace the causes of delinquency among military personnel and evaluate the success of the S.T.U.'s in relieving the problem; it describes in extremely interesting fashion the earlier lives of these young offenders, so that we see graphically just what kind of people they are, told often in their own words; it pictures, too briefly for this reviewer, the specific methods used at the S.T.U. to rehabilitate these soldiers.

Just as the Gluecks did in their monumental studies in this country, Mr. Tranaman found that the commonest and most conspicuous feature of the past lives of his subjects was a socially and emotionally unhealthy atmosphere in their parents' homes. Nearly half of Mr. Trenaman's military offenders suffered from parental neglect, and the majority had come from economically impoverished and overcrowded households. Other items covered by the questionnaires figured importantly as contributing factors or results in the total picture that these soldiers presented. Despite the long-standing nature of their anti-social patterns, a follow-up on the original subjects revealed that slightly more than half turned out to be satisfactory soldiers after leaving the S.T.U. This is a noteworthy achievement when one considers that the maximum stay at one of these camps was only six months. It was felt that 75% of the cases that came to the S.T.U.'s could be successfully helped if properly handled.

The actual methods and program employed at the S.T.U.'s are discussed directly but briefly at the beginning of the book, and come in as parts of other subjects from time to time later on. These were for this reviewer the most vital part of the volume and one sees them as having great relevance for the whole field of training schools in this country, institutions which are set up to help juvenile delinquents in civilian life. Noted with great interest was the fact that the S.T.U.'s stressed individual attention, an avoidance of close confinement so that there were no more restrictions than at any other army establishment, and a full program of daily activities. Regular military drill and assignments were a part of the schedule, as were academic classes, recreational and hobby groups, and full opportunity to consult with welfare specialists. These latter were apparently similar to social workers, who could listen to a man's problems, and recommend practical measures such as assignment change, transfer, special leave, etc. to the Commanding Officer.

Those who read this work can reach their own conclusions about the validity and reliability of the statistical data and research plan. Regardless of his findings in this area, the reader will most certainly come away with a richer understanding of the forces which impel some of us to defiant behavior. Particularly will he be intrigued by the rehabilitative techniques employed at the S.T.U.'s and regret that they were not discussed more fully. Nevertheless, the flavor of the method comes through and hopefully may inspire some of us who work directly with people in trouble to emulate and extend it.

The Children's Village, New York Harold D. Werner

OTHER BOOKS RECEIVED–

Anderson, Oscar Edward, Jr.: *Refrigeration In American: A History Of A New Technology and Its Impact.* (Princeton: Princeton University Press, 1953, Pp., 344, $6.00.)

Anderson, Ronald A.: *Cases On Business Law.* (Cincinnati: South-Western Publishing Co., 1953, Pp., 1102, $6.00.)

Badeau, John S. and Nolte, Richard H.: *The Emergence Of Modern Egypt.* (New York: Foreign Policy Association, 1953, Pp., 62, $.35.)

Beals, Ralph L. and Hoijer, Harry: *An Introduction To Anthropology.* (New York: The Macmillan Co., 1953, Pp., 658, $6.00.)

Black, John Donald: *Introduction To Economics For Agriculture.* (New York: The Macmillan Co., 1953, Pp., 727, $6.00.)

Blackall, Frederick S., Jr.: *Price Control In the Machine Tool Industry.* (New York: American Enterprise Association, 1953, Pp., 43, $.50.)

Commission appointed by the General Assembly of the Church of Scotland: *The Church Under Communism.* (New York: Philosophical Library, 1953, Pp., 79, $2.75.)

Curtiss, W. M.: *The Tariff Idea.* (New York: The Foundation for Economic Education, Irvington-on-Hudson, 1953, Pp., 80, $1.00.)

Ferguson, John H. and McHenry: *The American System of Government.* (New York: McGraw-Hill Book Co., 1953, Pp., 1056, $6.00.)

Halmos, Paul: *Solitude and Privacy: A Study of Social Isolation, Its Causes and Therapy.* (New York: Philosophical Library, 1953, Pp., 181, $4.75.)

Harper, F. A.: *Stand-By Controls.* (New York: The Foundation for Economic Education, Irvington-on-Hudson, 1953, Pp., 23, NP.)

Harriss, C. Lowell: *The American Economy: Principles, Practices, and Policies.* (Homewood, Ill.: Richard D. Irwin, 1953, Pp., 1051, $6.00.)

Hawley, Amos H.: *Intrastate Migration In Michigan: 1935-1940.* (Ann Arbor: University of Michigan Press, 1953, Pp., 199, $1.50.)

Heissenberger, Franz: *The Economic Reconstruction Of Austria: 1945-1952.* (Washington: Library of Congress, European Affairs Division, 1953, Pp., 153, $1.00.)

Holland, William L. (Ed.): *Asian Nationalism and the West: An International Symposium On Nationalist Movements In Southern and Eastern Asia.* (New York: The Macmillan Co., 1953, Pp., 449, $5.00.)

Karpf, Fay B.: *The Psychology and Psychotherapy Of Otto Rank: An Historical and Comparative Introduction.* (New York: Philosophical Library, 1953, Pp., 129, $3.00.)

Kentucky Legislative Research Commission: *Kentucky's Schools: Past, Present, and Future.* (Frankfort: Kentucky Legislative Research Commission, Arthur Y. Lloyd, Chairman, 1953, Pp., 15, NP.)

Kentucky Legislative Research Commission: *Legislative Research In Kentucky.* (Frankfort: Kentucky Legislative Research Commission, 1953, Pp., 57, NP.)

Kohn, Hans: *Pan-Slavism: Its History and Ideology.* (Notre Dame, Ind.: University of Notre Dame Press, 1953, Pp., 356, $6.25.)

Lasser, J. K. and Porter, Sylvia F.: *Managing Your Money.* (New York: Henry Holt & Co., 1953, Pp., 430, $4.95.)

McDonagh, Edward C. and Richards, Eugene S.: *Ethnic Relations In the United States.* (New York: Appleton-Century-Crofts, Inc., 1953, Pp., 408, $4.00.)

Mace, David R.: *Hebrew Marriage: A Sociological Study.* (New York: Philosophical Library, 1953, Pp., 271, $6.00.)

Mack, Robert T., Jr.: *Raising the World's Standard Of Living.* (New York: The Citadel Press, 1953, Pp., 285, $4.00.)

Podolsky, Edward, (Ed.): *Encyclopedia Of Aberrations: A Psychiatric Handbook.* (New York: Philosophical Library, 1953, Pp., 550, $10.00.)

Reese, Jim E.: *Our American Economy: An Introductory Course.* (Boston: Houghton Mifflin Co., 1953, Pp., 439, $5.50.)

Riese, Walther: *The Conception Of Disease: Its History, Its Versions and Its Nature.* (New York: Philosophical Library, 1953, Pp., 120, $3.75.)

Riker, William H.: *Democracy In the United States.* (New York: The Macmillan Co., 1953, Pp., 428, $2.25.)

Runes, Dagobert D.: *The Soviet Impact On Society.* (New York: Philosophical Library, 1953, Pp., 202, $3.75.)

Sabine, Paul E.: *Atoms, Men and God.* (New York: Philosophical Library, 1953, Pp., 226, $3.75.)

Schonfield, Hugh J.: *The Suez Canal In World Affairs.* (New York: Philosophical Library, 1953, Pp., 174, $4.50.)

Simpson, George Eaton and Yinger, J. Milton: *Racial and Cultural*

Minorities: An Analysis Of Prejudice and Discrimination. (New York: Harper & Bros., 1953, Pp., 773, $6.00.)

Spriegel, William R.: *Principles Of Business Organization and Operation.* (New York: Prentice-Hall, Inc., 1952, Pp., 656, $6.50.)

Strausz-Hupe, Robert: *The Zone Of Indifference.* (New York: G. P. Putnam's Sons, 1952, Pp., 312, $3.75.)

Taylor, George Rogers (Ed.): *The Great Tariff Debate, 1820-1830.* (Boston: D. C. Heath and Co., 1953, Pp., 95, $1.00.)

Tumin, Melvin M.: *Caste In A Peasant Society: A Case Study In the Dynamics Of Caste.* (Princeton: Princeton University Press, 1952, Pp., 300, $5.00.)

United States Department Of Labor: *The Workers' Story: 1913-1953.* (Labor Yearbook No. II). (Washington: U. S. Government Printing Office, 1953, Pp., 143, $.45.)

Waldo, Dwight: *Ideas and Issues In Public Administration: A Book Of Readings.* (New York: McGraw-Hill Co., 1953, Pp., 462, $5.50.)

Waller, George M. (Ed.): *Pearl Harbor: Roosevelt and the Coming Of the War.* (Boston: D. C. Heath and Co., 1953, Pp., 112, $1.00.)

Wenke, Hans: *Education In Western Germany.* (Washington: Library of Congress, 1953, Pp., 102, $1.00.)

Westphalen, Ferdinand A.: *Sociology and Economics In Austria.* (Washington: Library of Congress, 1953, Pp., 50, NP.)

Whicher, George F. (Ed.): *William Jennings Bryan and the Campaign Of 1896.* (Boston: D. C. Heath and Co., 1953, Pp., 109, $1.00.)

Whiting, John W. M. and Child, Irvin L.: *Child Training and Personality: A Cross-Cultural Study.* (New Haven: Yale University Press, 1953, Pp., 353, $5.00.)

Wills, George: *Alice In Bibleland.* (New York: Philosophical Library, 1953, Pp., 54, $6.00.)

Ziegler, Benjamin Munn (Ed.): *Immigration: An American Dilemma.* (Boston: D. C. Heath and Co., 1953, Pp., 118, $1.00.)

The Association

The Southwestern Social Science Association held its 1953 annual convention at Dallas, Texas, on Friday and Saturday, April 3 and 4. Since the preliminary program appeared in the March issue of the*Quarterly*, it is not reproduced here. Following, however, are the minutes of the several business meetings held during the convention:

MINUTES OF THE MEETING OF THE EXECUTIVE COUNCIL DALLAS, APRIL 2, 1953

The Executive Council held its annual meeting in Hotel Adolphus, Thursday, April 2, 1953, 7:30 p.m., with President H. R. Mundhenke, presiding.

Members present: President Mundhenke, Carl M. Rosenquist, First Vice-President; P. F. Boyer, Second Vice-President; Roy L. McPherson, Secretary-Treasurer; Oliver Benson, Editor of *Quarterly*; Comer Clay, General Program Chairman; Archie L. Leonard, Chairman of Agricultural Economics Section; Jean D. Neal, Chairman of Business Administration Section; Ralph L. Edgel, Chairman of Business Research Section; Nason N. Duncan, Chairman of Geography Section; G. W. McGinty, Chairman of History Section; Marion B. Smith, Chairman of Sociology Section.

Members absent: Vernon G. Sorrell, Past President; J. L. Waller, Past President; E. Burl Austin, Chairman of Accounting Section; Clay L. Cochran, Chairman of Economics Section; Rufus G. Hall, Jr., Chairman of Government Section.

The President gave each member an opportunity to bring before the Council any matter which he thought should be considered. The Editor of the *Quarterly* and the Secretary-Treasurer discussed some of the problems which had arisen in connection with their duties.

Various other matters affecting the Association were considered; but specific recommendations were made only on two: 1) It was the recommendation of the Council that the incoming President give serious consideration to the question of extending special invitations to prominent business and community leaders. 2) That the new Council consider authorizing the President to appoint an editor to expand in the *Quarterly* the section dealing with personal items and other events and activities considered news worthy.

The Council adjourned.

MINUTES OF THE GENERAL BUSINESS MEETING, DALLAS, APRIL 4, 1953

The minutes of the Executive Council meeting held on April 2, 1953, were approved as read.

The Secretary-Treasurer reported that he had received a cash balance of $1,722.98 from the former Secretary-Treasurer, George Walker, on July 15, 1952 and that the cash balance of the Association on April 1, 1953 was $1,754.60.

Memberships as of April 1 were as follows:

Individual members	547
Life memberships	13
Libraries	13
Institutions	8

The following report of the Audit Committee was made by D. M. Smith, Jr., Chairman.

We have prepared the accompanying statement of cash receipts and disbursements from records of the Southwestern Social Science Association which were submitted to us:

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS FOR THE YEAR FROM MARCH 15, 1952 TO MARCH 15, 1953

Cash Balance on March 15, 1952			$1,396.80
Receipts for period:			
Individual memberships		$2,114.00	
Library memberships		794.00	
Institutional memberships:			
Regular memberships	$175.00		
Contributions of University of Oklahoma to printer of *Quarterly*	225.00	400.00	
Sale of back issues of *Quarterly*		4.00	
Display space at Convention		725.00	
Advertising in *Quarterly*		105.50	
Advertising in annual program		50.00	
Receipts from banquet		317.50	
Total Cash Receipts			4,510.00
Total Cash Available for Expenditure			$5,906.80
Disbursements for period:			
Quarterly expenses:			
March, 1952 issue	606.26		
June, 1952 issue	655.33		
September, 1952 issue	731.19		
December, 1952 issue	679.91		
Stencils, stencil cutting and addressing wrappers	21.18		
Wrappers	24.48	$2,718.35	
1952 Convention Expenses:			
Display space at Hotel	100.00		
Signs	8.74		
Printed programs	167.65		
Mimeograph programs	18.40		
Expense of General Program Chairman	76.28		
Banquet expense	388.85	759.92	
Expenses of Secretary-Treasurer:			
To Nachitoches, Louisiana to take over duties from former Secretary-Treasurer	33.86		
1952 Convention expenses	52.27		
Postage	66.24		
Stationery and office supplies	78.33		
Telephone expense	1.69		
Clerical expenses	400.26	632.65	
Postage for Book Review Editor		13.23	
Stationery for officers		49.00	
Contribution to Southwestern Social Science Association Foundation		10.00	
Filing cabinet for records of Secretary-Treasurer		58.50	
Total Disbursements			$4,241.65
Cash on Hand on March 15, 1953			$1,665.15

The report of the Resolutions Committee, which follows, was approved:

Whereas, the Southwestern Social Science Association is approaching the completion of a successful annual meeting, and, whereas, this success is in large part due to the aid and cooperation of various persons and organizations; be it therefore resolved that the thanks of the association (1) be tendered to the management and staff of the Adolphus Hotel for the excellent service and accommodations provided; (2) to the Dallas Chamber of Commerce for its generous assistance in the registration of the membership; (3) to the local arrangements committee, particularly to the chairman, Professor Henry Key of T.C.U., for their thoughtful advance preparations; (4) to the general program chairman, Professor Comer Clay of T.C.U., for his painstaking work on the program; and (5) to Professor Warren K. Agee of T.C.U., chairman of the publicity committee, and to the Associated Press, United Press, Dallas Morning News and Daily Times Herald for the full and impartial coverage given to the events of the meeting.

The report of the Committee on Nominations was accepted and the following were elected officers of the Association: Carl M. Rosenquist, President; P. F. Boyer, First Vice-President; John W. White, Second Vice-President.

To fill vacancies on the Board of Trustees of the Southwestern Social Science Foundation, Arthur A. Smith, of the First National Bank in Dallas, was elected to a five-year term and Joe Pray, of the University of Oklahoma, was elected to a four-year term.

The Association accepted the following report which was made by Oliver Benson, Editor of the *Quarterly*:

The four issues of Volume 33 (June 1952-March 1953) of the *Quarterly* include 388 pages—nearly 100 above the average since the war. Of the 21 articles, 18 southwestern and 7 outside authors and co-authors being represented, there were nine chiefly of regional content and twelve of general content. Two were in agricultural economics, three in geography, five in government, five in history, six in sociology, and one dealt with the social sciences generally (this enumeration counts one article in two fields).

The book review section, reflecting the usual high quality of Dr. H. Malcolm Macdonald's editorial supervision, published 89 major reviews, besides the lists of books received.

A new cover format was introduced with the September 1952 issue, after consultation with a typographical designer. It is simpler and more modern than the old one, and is set with stock type, thus averting the periodic expense of a new plate.

The September issue also launched an experiment with a single-theme issue. This was repeated with the March issue—which was further experimental in being the product of a single discipline. Professor Walter Firey, associate editor for sociology, selected the theme and articles with a view to cross-discipline interest. The December issue carried a theme title, but was not planned in any way as a single-theme issue. The Editor's hope is that this variety of techniques will be of value in planning the future course of the journal.

The Editor again invites attention to the advertising space—only three pages were sold this year. For the record, the rates are: half-page: $18.50; single page: $30; inside back cover: $40; outside back cover: $50.

The Editor is now rounding out his sixth year with the *Quarterly*. Except for Mr. Patterson, this is as long as any editor has served. In the conviction that this is long enough, that the Association's interests are best served by periodic change in editorial supervision, and because of the pressure of his own research, he has tendered his resignation to the Executive Council, effective following publication of the June issue. In doing so he wishes to express his deepest appreciation to the entire Association. He owes many debts of gratitude, but particularly: to the hundreds of authors who have submitted manuscripts; to the book review editor, Dr. H. Malcolm Macdonald, who has so ably handled that department during the entire period; to the associate editors for the several disciplines, whose painstaking work on the manuscripts has made his task easier; to the Secretaries-Treasurer of

the Association during this time—William Strauss, Eastin Nelson, George T. Walker, and Roy McPherson, for their handling of the most onerous business problems of the *Quarterly*—especially the mailing list; and to the Executive Councils with which he has served—especially to Association Presidents Cortez Ewing, S. A. Caldwell, Edwin J. Foscue, J. L. Waller, Vernon G. Sorrell, and H. R. Mundhenke.

The Editor has enjoyed serving the Association in this position—it has required a lot of work, but has also carried many compensations. He is most anxious to be of any assistance he can in helping his successor take over the work, and stands ready to serve the Association as best he may at any time.

The Sections of the Association have elected the following as officers:

Accounting

Chairman	Lloyd F. Morrison Louisiana State University
Editor	Zeb B. Freeman, Jr. Southern Methodist University

Agricultural Economics

Chairman	Martin D. Woodin Louisiana State University
Editor	L. A. Parcher Oklahoma A. and M. College

Business Administration

Chairman	Glenn L. Hodge Louisiana Polytechnic Institute
Editor	George H. Zeiss Southern Methodist University

Business Research

Chairman and Editor	L. J. Crampton University of Colorado

Economics

Chairman	Frederic Meyers University of Texas
Editor	Sam B. Barton North Texas State College

Geography

Chairman	Donald D. Brand University of Texas
Editor	William T. Chambers Stephen F. Austin State Teachers College

Government

Chairman	August O. Spain Texas Christian University
Editor	Dick Smith John Tarleton State College

History

Chairman	Lynn I. Perrigo New Mexico Highlands University
Editor	Leroy Vogel Centenary College

Sociology

Chairman	Kenneth Evans East Texas State Teachers College
Editor	Walter J. Firey University of Texas

MINUTES OF THE MEETING OF THE EXECUTIVE COUNCIL

The incoming Executive Council met at 9:15 a.m. on April 4, in Hotel Adolphus.

Roy L. McPherson was re-elected Secretary-Treasurer.

The Council approved meeting at Hotel Adolphus in 1954. Mr. Oliver Benson was instructed to investigate the accommodations which could be secured in Oklahoma City for the 1955 meeting. It was the decision of the Council that the 1955 meeting should be held in Oklahoma City, provided suitable arrangements could be made.

The matter of electing an editor of the *Quarterly* was discussed, but no action was taken.